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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM90-7-000; Order No. 537]

18 CFR Parts 157 and 284

Revisions to Regulations Governing Transportation Under Section 311 of the Natural Gas Policy Act of 1978 and Blanket Transportation Certificates

Issued September 20, 1991.

AGENCY: Federal Energy Regulatory Commission (Commission), DOE.

ACTION: Final rule.

SUMMARY: The Commission is issuing a final rule to revise its regulations governing transportation of natural gas by interstate pipelines and intrastate pipelines under section 311 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432, and interstate pipelines under blanket certificates issued under § 284.221 of the regulations, 18 CFR 284.221. The revised regulations adopts an interpretation of the "on behalf of" standard in section 311 of the NGPA which responds to an opinion issued by the U.S. Court of Appeals for the District of Columbia. The rule also revises the regulations' notice and protest provisions applicable to interstate pipelines' transportation activities under blanket certificates.

EFFECTIVE DATE: This final rule will become effective November 4, 1991.

ADDRESSES: All requests for rehearing should refer to Order No. 537, Docket No. RM90–7–001 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Jack O. Kendall, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–1022.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission has made this document available so that all interested persons may inspect or copy its contents during normal business hours in room 3308, 941 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a person computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this interim rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street NE., Washington, DC 20426.

Hadson Gas Systems, Inc., Cascade Natural Gas Corp. v. Northwest Pipeline Corp., et al., and Texas Eastern Transmission Corp.

[Docket Nos. RM90–7–000, GP88–11–002, CP88–286–004, RP88–81–014, RP88–67–033, RP88–175–002]

Issued September 20, 1991.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is issuing a final rule amending the regulations governing transportation by intrastate pipelines and interstate pipelines under section 311 of the Natural Gas Policy Act of 1978 (NGPA) [1] and transportation by interstate pipelines under blanket certificates issued pursuant to § 284.221 of the Commission's regulations.[2]

The final rule adopts an interpretation of the "on behalf of" standard in section 311 of the NGPA which responds to the opinion issued on April 6, 1990, by the United States Court of Appeals for the District of Columbia Circuit in *Associated Gas Distributors* v. *FERC* (*AGD-Hadson*).[3] In *AGD-Hadson* the Court held that the Commission's then effective interpretation was inconsistent with the NGPA and therefore invalid.

This final rule's "on behalf of" interpretation is broader than the interpretation adopted by the interim rule that the Commission issued on August 2, 1990, in response to the *AGD-Hadson* decision.[4] The Commission made that interim rule immediately effective in order to provide a timely response to *AGD-Hadson* and to avoid market disruptions as the result of the uncertainties created by that court decision regarding which section 311 transportation services could continue or commence.

This final rule also revises the regulations' notice and protest provisions applicable to interstate pipelines' transportation activities under part 284 blanket certificates.

These revisions are intended to increase the availability and flexibility of open-access transportation services and to eliminate the current incentive for interstate pipelines to rely on NGPA section 311 transportation authority rather than their blanket certificate transportation authority issued pursuant to section 7(c) of the Natural Gas Act.[5]

II. Public Reporting Burden

This final rule consolidates the reporting requirements in FERC–549 and FERC–549(A), Gas Pipeline Rates: NGPA Title III Transactions, contained in the notice of proposed rulemaking and the interim rule. This consolidation will result in a reduction in the public reporting burden on interstate pipelines by 8,100 hours. This reduction offsets an increase of 405 hours in report filings by interstate pipeline respondents under the blanket certificate regulations that will result due to elimination of the regulatory provisions limiting a blanket certificate transportation service by an interstate pipeline to 120 days if the service is the subject of a protest at the end of the 120-day period. The

[1] 15 U.S.C. 3301–3432.

[2] 18 CFR 284.221.

[3] 899 F. 2d 1250 (D.C. Cir. 1990), *reh'g denied*, No. 88–1856 (D.C. Cir. June 4, 1990). The mandate of the Court was issued on June 18, 1990.

[4] FERC Stats. & Regs., Regs. Preambles, ¶ 30,894 (1990), *amended*, FERC Stats. & Regs., Regs. Preambles, ¶ 30,899 (1990) (order extending conversion period for one month), *reh'g denied*, 53 FERC ¶ 61,141 (1990).

[5] 15 U.S.C. 717–717w.

consolidation of FERC–549 and FERC–549(A) will result in an estimated annual public reporting burden of 13,635 hours for the collection of information. No change in burden is expected under FERC–537, Gas Pipeline Certificates: Construction, Acquisition, and Abandonment. Burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

III. Background

A. The Commission's Implementation of Section 311

Section 311 of the NGPA gives the Commission the authority to authorize, by rule or order, any interstate pipeline to transport gas on behalf of any intrastate pipeline or local distribution company (LDC), and any intrastate pipeline to transport gas on behalf of any interstate pipeline or LDC served by an interstate pipeline.[6]

In *Hadson Gas Systems, Inc. (Hadson),*[7] the Commission determined that an interstate pipeline is transporting natural gas "on behalf of" an intrastate pipeline or LDC whenever the intrastate pipeline or LDC receives "some economic benefit" from the transaction.[8] The Commission also determined that the intrastate pipeline or LDC on whose behalf gas is transported may derive its economic benefit from an agency relationship with a party requesting transportation service from an interstate pipeline. In other words, if the LDC or intrastate pipeline was receiving some compensation or other benefit as a result of its on behalf of agency function, then the statutory mandate was met. The Commission affirmed these clarifications of the "on behalf of" standard in *Cascade Natural Gas Corporation* v. *Northwest Pipeline Corporation, et al. (Cascade)*[9] and *Texas Eastern Transmission Corporation (Texas Eastern).*[10]

B. The Court's AGD-Hadson Decision

After reviewing the Commission's orders in *Hadson, Cascade,* and *Texas Eastern,* the Court held in *AGD-Hadson* that the Commission's interpretation of the "on behalf of" standard was invalid. The Court vacated the Commission's orders to the extent they relied on the impermissible interpretation of the "on behalf of" standard. The Court also remanded *Hadson* and *Texas Eastern* for further proceedings consistent the Court's opinion.[11]

In *AGD-Hadson* the Court found that:

> The Commission's interpretation of section 311 allows any transportation of gas by any interstate pipeline anywhere in the country to qualify as transportation 'on behalf of' an intrastate pipeline or LDC, provided only that the shipper is willing to accept a fee in return for lending its name to the transaction.[12]

The Court concluded that the Commission's interpretation would permit virtually any gas transportation arrangement to be structured so as to take place outside the Commission's jurisdiction under section 7 of the NGA.[13] Since the Court found that Congress intended section 311 as a "limited exception to the requirements of section 7," the Court held that the Commission's "some economic benefit" test was unreasonably broad.[14]

The Court also concluded that the Commission's interpretation of section 311 did not bear any relationship to Congress' purpose in enacting section 311, which was to promote integration of the interstate and intrastate gas markets.[15] The Court rejected the argument that this purpose is best served by an interpretation that allowed the biggest universe of transactions to take place.[16]

The Court held that section 311 must be implemented by the Commission in a manner that distinguishes those transportation services which are related to the purpose of integrating the interstate and intrastate gas markets.[17] The Court found that the payment of a fee to an intrastate pipeline or LDC does not, in itself, serve the purpose of integrating interstate and intrastate markets. According to the Court, the intrastate pipeline or LDC must serve some function in the transaction that is related to the fact that it is an intrastate pipeline or an LDC.[18]

The Court found that the Commission could require that the purported "on behalf of" entity (i.e. LDC, interstate or intrastate pipeline) must transport the gas at some point or own the gas for some part of the transaction. However, the Court specifically declined to hold that these are the only transactions which can satisfy section 311. The Court stated that the Commission "could permissibly read the statute to allow other transactions, so long as the 'on behalf of' entity in the transaction is related to the transportation of gas by an interstate pipeline in a way that reflects its status as an intrastate pipeline or LDC." [19]

C. The Commission's Response to the Court's Decision

1. Interim Rule

The Commission's August 2, 1990, interim rule adopted the "safe harbor" interpretation specifically endorsed by the Court in *AGD-Hadson.*[20] Thus, under the interim rule, a transaction has not been authorized to continue under color of section 311 authority unless the "on behalf of" entity either (1) has physical custody of and transports the gas at some point, or (2) holds title to the gas at some point for a purpose related to its identity as a local distribution company or intrastate pipeline.[21] This is the so-called "title or transport" test.

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[6] Section 311(a) of the NGPA reads, in part:

(a) Commission approval of transportation

(1) Interstate Pipelines

(A) In General. The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas *on behalf of*—

(i) Any intrastate pipeline; and

(ii) Any local distribution company.

(2) Intrastate Pipelines

(B) In General. The Commission may, by rule or order, authorize any intrastate pipeline to transport natural gas *on behalf of*—

(i) Any intrastate pipeline; and

(ii) Any local distribution company served by any interstate pipeline.

(Emphasis added)

[7] 44 FERC ¶ 61,082 (1988), *reh'g denied,* 45 FERC ¶ 61,286 (1988).

[8] 44 FERC at p. 61,250.

[9] 44 FERC ¶ 61,081 (1988), *reh'g denied in relevant part,* 45 FERC ¶ 61,287 (1988).

[10] 44 FERC ¶ 61,080 (1988), *reh'g denied,* 45 FERC ¶ 61,285 (1988).

[11] Since the NGPA section 311 transportation at issue in *Cascade* had ceased, the Court found that the material issue in that proceeding was moot. Therefore, while the Court vacated the *Cascade* order to the extent it relied on an impermissible interpretation of the "on behalf of" standard, the Court did not remand *Cascade* for further proceedings.

[12] 899 F.2d at 1260. The Court noted that section 311 also enables the Commission to authorize intrastate pipelines to transport gas on behalf of interstate pipelines and LDCs served by interstate pipelines. *Id.* at 1261, n. 8. The Court limited its review to the transportation by interstate pipelines under section 311 because transportation by intrastate pipelines was not involved in the issues raised on appeal. However, the deficiencies found by the Court regarding the Commission's interpretation of the "on behalf of" requirement presumably apply as well to section 311 transportation by intrastate pipelines.

[13] *Id.* at 1260.

[14] *Id.* at 1261.

[15] *Id.* at 1262–1263.

[16] *Id.*

[17] *Id.* at 1263.

[18] *Id.* According to the Court, when the purported "on behalf of" entity's participation is unrelated to the fact that it is an intrastate pipeline or LDC, "[a]ll it does is receive money, and anyone could do that." *Id.*

[19] *Id.* at 1264.

[20] *Id.* at 1264.

[21] As an additional "safe harbor" mechanism to prevent market disruption, the interim rule also included procedures for the non-discriminatory conversion of existing section 311 transportation services to blanket certificate authorization.

The Commission explained that it intended to expand this "on behalf of" interpretation as soon as it was able to ascertain additional transactions that would clearly satisfy the Court's concerns over the scope of the section 311. However, the Commission made the interim rule's "safe harbor" interpretation effective immediately on issuance in view of the need to respond to the Court's *AGD-Hadson* decision in a timely manner and to avoid disruption of gas supply arrangements as the result of uncertainties created by the Court's decision as to whether existing gas transportation services under section 311 could continue and whether needed new services could commence.

2. Notice of Proposed Rulemaking

The Commission's Notice of Proposed Rulemaking (NOPR), issued on the same day as the interim rule, proposed the same "safe harbor" interpretation adopted by the interim rule. However, the NOPR requested specific suggestions on how the proposed interpretation of the "on behalf of" standard might be expanded to authorize additional transactions under section 311 while satisfying the Court's decision. The NOPR also proposed to make any interpretation adopted by this final rule applicable as well to transactions in which intrastate pipelines are transporting gas in interstate commerce under section 311.

The NOPR also requested comments on a proposal to substitute notification procedures like those for section 311 transportation services for the notice and protest provisions that currently apply to transportation services by interstate pipelines under their part 284 blanket certificates.

Forty-seven parties filed initial comments on the NOPR and sixteen parties filed reply comments.[22]

IV. Response to Comments

A. "On Behalf of" Interpretation

In addition to inviting comments on whether it would be appropriate in a final rule to adopt the interim rule's "safe harbor" interpretation requiring that the "on behalf of" entity transport or hold title to gas at some point, the NOPR requested comments on several specific possible expansions of the interim rule's "safe harbor" interpretation. The NOPR asked whether it would be appropriate for the Commission:

(1) To expand the interim rule's interpretation to encompass transactions in which a shipper causes transportation volumes to be delivered to an interstate pipeline, and an LDC or intrastate pipeline takes receipt or is contractually entitled to take receipt of some portion of the gas volumes from the interstate pipeline;

(2) To authorize section 311 transportation service by an interstate pipeline for any customer of an LDC or intrastate pipeline, so long as the LDC or intrastate pipeline does not oppose the service;

(3) To authorize transportation by an interstate pipeline under section 311, so long as an intrastate pipeline or LDC derives any significant direct or indirect benefit, including economic benefit other than an agent's fee, from the transaction;

(4) To make section 311 authority available when an interstate pipeline's transportation would facilitate an intrastate pipeline's release of gas with respect to which it has take-or-pay obligations; or

(5) To make section 311 authority available whenever transportation service by an interstate pipeline would increase its throughput and thereby benefit all of its customers, including LDCs, by spreading service costs over more units of service in future rate cases.

In addition to these specific suggestions, the NOPR invited comment on other possible means of expanding the interim rule's "transport or hold title" test.

Forty-four of the 47 parties commenting on the NOPR addressed the "on behalf of" interpretation.[23]

Commenters that believe the interim rule's "transport or hold title" test is too broad. Four commenters believe the interim rule's "safe harbor" interpretation, although much narrower than the previously effective interpretation, is still too expansive. Specifically, Miami Valley Counsel, Germantown, and Dayton-Montgomery are concerned that the "transport or hold title" interpretation will lead to the construction of more major pipeline construction projects under section 311 without adequate prior review and opportunity for comment. Willcox City states the interim rule's "safe harbor" interpretation will permit inappropriate transportation services under section 311 because the Commission has not explained when an LDC is holding title to gas for a purpose related to its status and functions as an LDC.

Commission response. The Commission believes that the interim rule's "safe harbor" interpretation clearly limits section 311 transportation services to transactions of the type intended by Congress, and that it therefore would be inappropriate to further narrow the "on behalf of" interpretation for the purpose of preventing interstate pipelines from undertaking relatively large-scale construction projects under section 311. Further, interested parties have had the opportunity to state and support their views in Docket No. RM90–1–000 regarding the need for Commission oversight in section 311 construction projects. The Commission's final rule in that docket addresses these comments and issues relating to the construction of gas facilities generally and is being issued simultaneously with this final rule.

The Commission also does not believe it is necessary to further restrict the interim rule's "on behalf of" test because its "hold title" prong is too vague to prevent inappropriate transactions from going forward under color of section 311. In any instance where any person can support an allegation that a designated "on behalf of" entity is not holding title to gas for a purpose related to its identity as an LDC, intrastate pipeline, or interstate pipeline, as applicable, that person may file a complaint with the Commission. However, in view of the Commission's discussion below regarding transactions where holding title will not qualify an "on behalf of" entity, the Commission believes attempts to abuse the "hold title" test will be infrequent.

Commenters that support adoption of the interim rule's "transport or hold title" test in the final rule. Nineteen commenting parties support adoption of the interim rule's "safe harbor" interpretation in the final rule without expansion.[24] These parties believe the suggested expansions would produce uncertainty, new court challenges and would be outside the scope of section 311 as defined by the Court in *AGD-Hadson*.

Commission response. The Commission agrees that, except for the expansions of the 311 test discussed below, the NOPR's suggestions for expanding the "on behalf of" interpretation have not been demonstrated to clearly satisfy the *AGD-Hadson* Court's criteria for qualifying section 311 services.

General commenters supporting expansion of the "transport or hold title" test. Twenty-one commenters request expansion of the interim rule's

[22] The commenters are listed in the appendix to this order. The abbreviation used in this order for each commenter is also listed in the appendix.

[23] Tennessee, Oklahoma, and Peoples did not address the issue of the "on behalf of" interpretation.

[24] See comments by ACD, APGA, Cascade, CNG, El Paso, Michcon, Mississippi Valley, State Consumers Advocate, UDC, Iowa Illinois, the NYPSC, Northwest, Northern Illinois, American Paper Institute, ECMI, Cal PUC, SoCal, Texas Gas, and Transok, Inc.

"safe harbor" interpretation of the section 311's "on behalf of" standard.[25] Some commenters emphasize that the *AGD-Hadson* Court merely offered the "transport or hold title" requirement as an option for Commission consideration and did not mandate an interpretation as restrictive as the interim rule's "safe harbor" test.[26] Most of these commenters argue that the Commission should not focus on the traditional functions of intrastate pipelines and LDCs, since Congress would have intended section 311 to encompass the additional roles that LDCs and intrastate pipelines can play in bringing about integration of the interstate and intrastate gas markets.[27]

ANR, INGAA, Transco, LILCO, and JMC Fuel support all of the NOPR's suggestions for expansion of the interim rule's "safe harbor" interpretation, because they all would (1) facilitate the movement of gas supplies between the intrastate and interstate gas markets and (2) provide some form of direct or indirect benefit to LDCs and intrastate pipelines. However, these commenters do not explain how LDCs and intrastate pipelines would satisfy the Court's holding that they must perform functions traditionally associated with their identities as intrastate pipelines or LDCs.

ANR believes that the final rule should authorize section 311 transportation service by an interstate pipeline whenever the transportation can be viewed as furthering the integration of the intrastate and interstate gas markets, regardless of whether there is any benefit to an LDC or intrastate pipeline.

The Cal PUC, SoCal, Texas Gas and Transok, Inc. support expansion of the interim rule's "safe harbor" interpretation only so far as any such expansion is consistent with the *AGD-Hadson* decision. SoCal emphasizes that, in order to be consistent with *AGD-Hadson*, any expansion should be subject to the condition that an LDC or intrastate pipeline does not oppose any section 311 transportation service that would result in gas deliveries to a customer in its service area.

Commission response. The Commission's success in achieving open-access, market responsive gas services has been due largely to section 311 transportation services. Therefore, the Commission agrees, as it stated in the interim rule and NOPR, that section 311's "on behalf of" standard should be interpreted as broadly as possible, consistent with the legislative intent and purpose of section 311.

However, the Court has spoken in *AGD-Hadson* regarding Congress' intentions in enacting section 311. The Court specifically held that the Commission may not adopt an interpretation of that section simply because it would increase the number of transactions that may take place under section 311 authority. The Commission may not expand section 311 beyond the parameters delineated by the Court, as suggested by some commenters, based on the Commission's or the commenters' beliefs as to what additional transactions Congress might authorize if it were adopting section 311 today. If Congress amends the statute—as is currently being considered—then the Commission will revisit this issue. The Commission does believe, however, that the title or transport test can be expanded and still pass muster under the *Hadson* opinion. As discussed below, we have determined that an interstate pipeline's transportation of gas supplies should qualify under section 311, if the shipper/customer is either located in an LDC's service area or physically capable of receiving gas supplies directly from an intrastate pipeline, and that LDC or intrastate pipeline certifies that the interstate pipeline's transportation service is on its behalf. In such instances, the final rule provides for section 311 transportation authority, regardless of whether the LDC or intrastate pipeline takes title to the gas or transports it at any point.[28]

We believe section 311 service under all of the above circumstances is fully consistent with the Court's findings regarding the legislative intent of section 311, since the services will promote integration of the intrastate and interstate gas markets, and the gas customers will be in the service areas of designated "on behalf of" entities that support the transactions. Further, we believe an interstate pipeline should be able to rely on section 311 authority to transport gas for a customer that is located in the service area of a certifying LDC, even if the LDC currently has no facilities that make direct gas deliveries to that customer. This conclusion is based in part on the Commission's recognition that states' regulations frequently impose obligations on LDCs to provide service to new customers in their service areas.

However, intrastate pipelines are not subject to the same service obligations as LDCs. Therefore, we will only authorize an interstate pipeline to provide section 311 transportation service gas for a customer in the operating area of a certifying but non-transporting, non-title holding intrastate pipeline when facilities already exist for the direct delivery of gas by that intrastate pipeline to that customer.

This limitation is necessary to ensure that interstate pipelines do not rely on section 311 authority to transport gas on behalf of intrastate pipelines when they are engaging in marketing activities or other functions that are not traditional intrastate pipeline functions. In these instances, interstate pipelines will have to rely on their blanket certificate authority under the NGA to provide transportation service. This result is consistent with the *AGD-Hadson* Court's finding that Congress intended section 311 as a "limited exception to the requirements of section 7 (of the Natural Gas Act)".[29]

Application of the final rule to intrastate pipelines. Section 311(a)(2) provides that transportation under that section by an intrastate pipeline must be on behalf of an interstate pipeline or an LDC served by an interstate pipeline. Both the Texas Intrastates and Houston Pipeline Co. request that any final rule authorize section 311 transportation by intrastate pipelines in certain circumstances where there is no participation by an interstate pipeline or LDC served by an interstate pipeline.

Specifically, the Texas Intrastates and Houston Pipeline Co. believe the final rule should ensure that an intrastate pipeline will be able to rely on section 311 authority, even when no interstate pipeline or LDC is involved at any point, to transport gas gathered in an adjacent state or Federal waters to an end-user in the intrastate pipeline's state.

These commenters also request that the Commission clarify in any final rule

[25] Arkla, Entrade, Indicated Shippers, INGAA, Transco, IPAA, JMC Fuel, LILCO, Tejas Power Corp., UGP, VHC Gas, Williams Gas, Texas Intrastates, Houston Pipeline Co., ANR, A.P.Green Industries, Enron, Panhandle Eastern, Process Gas, Williams Natural, and Natural.

[26] INGAA, Transco, LILCO, Tejas Power Corp., and UGP.

[27] In effect, these comments invite the Commission to disagree with the *Hadson* opinion. This we decline to do.

[28] The necessary certifications would be by intrastate pipelines and LDCs to interstate pipelines. While the "on behalf of" entity must make the certification, either the "on behalf of" entity or the shipper may submit the certification to the pipeline that will be rendering the section 311 transportation service.

We will not require that these certifications be filed with the Commission. However, when a pipeline is providing a transportation service, and the designated "on behalf of" entity needs to provide a certification because it is not transporting or holding title, the pipeline should obtain the certification before commencing service. If the issue arises whether the pipeline's service qualifies under the section 311 regulations, the pipeline must be able to provide the certification upon request.

[29] 899 F.2d at 1261.

that an intrastate pipeline will still be able to rely on section 311 authority to exchange gas with an interstate pipeline or LDC served by an interstate pipeline. They state that clarification of such section 311 authority for intrastate pipelines is necessary to avoid the construction of unnecessary, duplicative gas transportation facilities.

Commission response. Even though the *AGD-Hadson* Court's review of section 311 was limited to interstate pipelines' activities, its reasoning is equally applicable to transactions where intrastate pipelines are providing transportation services under section 311. Therefore, the final rule also amends the regulations governing section 311 transportation services by intrastate pipelines.

As discussed above, we are expanding the interim rule's "transport or hold" interpretation to authorize section 311 transportation services by interstate pipelines for end-users in the service areas of non-transporting, non-title holding intrastate pipelines and LDCs that certify that the interstate pipeline's transportation service is on their behalf. We are not adopting a similar provision for intrastate pipelines, since it would be of little practical effect. An intrastate pipeline only needs section 311 authority to transport gas if it is moving in interstate commerce. Except in the very limited instances described by the commenters—*i.e.*, gas gathered in an adjacent state or adjacent Federal waters—if gas is moving in interstate commerce, it usually is being transported by an interstate pipeline or an LDC at some point, either before or after it is in the intrastate pipeline s system.

While only a relatively small portion of intrastate pipelines' services may involve transportation to end-users in their own states of gas received from gatherers in adjacent states or Federal waters, they enable parties to make efficient gas delivery arrangements in such circumstances. We also recognize, however, that intrastate pipelines might no longer be willing to provide these services if doing so would cause them to become fully subject to the Commission's jurisdiction under the Natural Gas Act. Further, although these services by intrastate pipelines clearly promote section 311's purpose of eliminating artificial restraints on the movement of gas supplies between interstate and intrastate gas markets, the services cannot be deemed to be on behalf of an interstate pipeline or LDC, if no interstate pipeline or LDC is participating in the supply arrangement in a way that reflects its identity as such.

In view of these considerations, the final rule adopts a new § 284.227 to provide limited-jurisdiction, blanket certificate authority under the Natural Gas Act for intrastate pipelines to deliver directly to end users in their own states gas received by the intrastate pipelines from gatherers that gathered the gas in adjacent Federal waters or onshore or offshore in an adjacent state. This blanket certificate authority will be available for new services and the continuation of existing services. While these services will no longer be under section 311 of the NGPA, and therefore will not have to satisfy the "on behalf of" requirement, new § 284.227 will provide that the blanket certificate authority for the services is subject to intrastate pipelines' continued compliance with all other conditions of subpart C of part 284, including its rate conditions, non-discrimination condition, and reporting requirements.

If an intrastate pipeline is providing a transportation service described in paragraph (a) of new § 284.227 as of February 1, 1992, and the service is not a qualifying section 311 service, the intrastate pipeline's blanket certificate will issue and become effective on that date. If an intrastate pipeline is not providing such a transportation service as of February 1, 1992, the blanket certificate will issue and become effective on the date that the intrastate pipeline commences such a service that is not a qualifying section 311 service.

As discussed below, this final rule is authorizing the continuation of all services commenced prior to August 2, 1990 (the issuance date of the NOPR) in reliance on the Commission's then effective regulations until February 1, 1992. If an intrastate pipeline continues any non-qualifying section 311 service described in new § 284.227 after that date, the intrastate pipeline shall be deemed to have accepted a blanket certificate under § 284.227. An intrastate also will be deemed to have accepted a blanket certificate if it commences such a service after the effective date of this rule.

The initial report filing requirements of § 284.126(a) of subpart C will apply to any blanket services that are new services commenced under new § 284.227. For any new blanket service that is an extension of a service that was originally commenced under section 311 under subpart C, an intrastate pipeline will be subject to the subsequent report filing requirement in § 284.116(b).[30] In each report on a section 311 service converted to blanket service, an intrastate pipeline will be required to identify the ST docket number in which the initial report was filed when the service was commenced under section 311.

New § 284.227 provides pregranted authority for an intrastate pipeline to abandon a transportation service under its blanket certificate issued under that section upon the expiration of the contract for that service.

New § 284.227 states that an intrastate pipeline's acceptance of a blanket certificate under that section will not subject the intrastate pipeline to the Commission's jurisdiction under the Natural Gas Act except to the extent necessary to ensure that services provided by the intrastate pipeline under Docket No. RM90–7–000, *et al.* the blanket certificate comply with the terms and conditions of the certificate.

As discussed above, the Texas Intrastates and Houston Pipeline Co. request clarification that any final rule will permit continued reliance by intrastate pipelines on section 311 authority to engage in exchanges of gas with interstate pipelines and LDCs. We will clarify that an intrastate pipeline's exchange of gas with an interstate pipeline or LDC served by an interstate pipeline is eligible section 311 transportation service by the intrastate pipeline if the interstate pipeline or LDC satisfies one of the final rule's applicable criteria for qualifying as an "on behalf of" entry. Thus, an intrastate pipeline may still be able to perform its part of an exchange under section 311 if the interstate pipeline or LDC that is the exchange partner either will transport the gas that it receives in the exchange at some point or hold title at some point to the exchange gas it receives for a purpose related to its status as an interstate pipeline or LDC.

Off-system sales by LDCs and intrastate pipelines. In the NOPR, the Commission concluded that sales of gas by an LDC outside its service area are not related to its traditional functions as an LDC.[31] Some commenters believe this limitation on section 311 unnecessarily undermines LDCs' ability to make off-system sales to dispose of surplus gas supplies.[32] LILCO also

[30] Section 284.126(b) requires an intrastate pipeline to file a subsequent report for any section 311 transportation service whenever there is a material change to the service.

[31] See NOPR, IV FERC Stats. & Regs., Proposed Regs., ¶ 32,476, at p. 32,446, n. 33 (1990).

[32] Arkla, Indicated Shippers, JMC Fuel, LILCO, Transco, and Process Gas.

believes this service area limitation will inhibit the efficient allocation of capacity on the interstate pipelines that have been authorized to broker their capacity.

LILCO, Indicated Shippers, APGA, and Process Gas argue that a pipeline should have section 311 authority to provide any transportation service that aids an LDC or intrastate pipeline in managing gas supplies that the LDC or intrastate pipeline is contractually committed to purchase for its system supply.

Commission response. The Commission recognizes that there may be some benefits that result from LDCs' and intrastate pipelines' off-system sales of gas and contractual releases of gas supplies. However, if the LDC or intrastate pipeline did not originally purchase or contract for a particular volume of gas for use as system supply, the sale or contractual release of the gas is not a function of the entity's status as an LDC or intrastate pipeline.

An LDC or intrastate pipeline can claim that any gas supplies were originally purchased or contracted for with the intent of using them for system supply. Since the Commission would have no reasonable means of determining whether such a claim was true, authorizing section 311 service by interstate pipelines based solely on an LDC's or intrastate pipeline's sale or contractual release of gas would permit transactions outside the scope of section 311 as defined and limited by the Court in *AGD–Hadson.*

Moreover, this limitation on section 311 service should not be a significant additional obstacle to any LDC's or intrastate pipeline's contractually releasing unneeded gas supplies or making off-system sales of surplus gas that it has never received into its facilities. Regardless of whether the LDC or intrastate pipeline originally purchased or contracted for the gas with the intention of using it for system supply, the LDC or intrastate pipeline may arrange for an interstate pipeline to transport the gas under blanket certificate authority. Again, this result is consistent with the *AGD–Hadson* Court's finding that Congress intended section 311 as a limited exception to the requirements of section 7 of the Natural Gas Act.

How soon the LDC or intrastate pipeline may start receiving transportation service will not be affected by it's requesting blanket service instead of section 311 service, since each interstate pipeline's first-come, first-served and other tariff provisions apply equally to section 311 and blanket transportation services. Further, the final rule's substitution of the section 311 notification requirement for the blanket regulations' current notice and protest procedures, as discussed below, eliminates the only remaining meaningful difference in the way the regulations treat section 311 service and blanket services.

Non-transporting intrastate pipelines' sales of non-local gas. American Paper Institute and Indicated Shippers object to the Commission's conclusion in the NOPR that a non-transporting intrastate pipeline is not holding title to gas for a purpose related to its status as an intrastate pipeline if the gas was not produced in its service area. These commenters believe an interstate pipeline should be able to transport gas under section 311 "on behalf of" a non-transporting intrastate pipeline that holds title to the gas at some point, regardless of the source of the gas.

Commission response. The Commission is denying the requested clarification. As explained in the NOPR, *AGD-Hadson* requires that an "on behalf of" entity's role in a section 311 transaction be related to its status as an intrastate pipeline.[33] The Commission recognizes that an intrastate pipeline's traditional functions may include instances where the intrastate pipeline purchases and sells gas produced in its operating area but never transports any of the gas. However, we do not believe that traditional intrastate pipeline functions include instances where an intrastate pipeline purchases gas produced outside its operating area and resells the gas without also transporting the gas at some point. The Commission believes that, in these instances the intrastate pipeline is acting as a gas marketer, not as an intrastate pipeline.

The comments have not suggested any delineable circumstances under which a non-transporting intrastate's purchase and sale of non-local gas production generally can be viewed as related to its traditional intrastate pipeline functions. Therefore, the Commission affirms its conclusion that transportation service by an interstate pipeline is not brought within the scope of section 311 by reason of a non-transporting intrastate pipeline holding title to gas that was not produced in its operating area.

Aggregation of volumes. As discussed above, the NOPR requested comments on the specific suggestion to expand the interim rule's interpretation to encompass all volumes transported by an interstate pipeline for a shipper in a particular transaction, if an LDC or intrastate pipeline takes receipt or is contractually entitled to take receipt of some portion of the gas volumes from the interstate pipeline. Panhandle Eastern, Indicated Shippers, Natural, Transok, Inc., and VHC Gas support this proposed expansion. El Paso and Tejas Power Corp. indicate that they would support the expansion in transactions where the LDC or intrastate pipeline actually takes some portion of the aggregated volumes. AGD believes this proposed expansion would be inconsistent with *AGD–Hadson.* AGD also believes this aggregation test would be unworkable and force the Commission into endless line drawing.

Commission response. The Commission has determined that it is not feasible to expand the "on behalf of" interpretation to authorize section 311 transportation of all of a shipper's gas on the basis of an LDC's or intrastate pipeline's being contractually entitled to take some portion of the gas. Such an expansion would create difficult monitoring problems. It also would permit circumvention of the legislative intent of section 311, since it would allow gas to be transported under section 311 even though the gas would not be delivered to a customer in the service or operating area of the LDC or intrastate pipeline designated as the "on behalf of" entity. Further, the *AGD–Hadson* Court has held that the Commission may not authorize transactions under section 311 based on its conclusion that they would promote gas movement between interstate and intrastate markets, if the "on behalf of" entities will be not performing functions related to their being LDCs and intrastate pipelines.

Request for Commission procedures for determining whether a transaction qualifies under section 311. Enron, Williams Natural, ANR, Indicated Shippers, INGAA, and Transco all recommend that the Commission adopt specific procedures for addressing requests for clarification, interpretation, and declaratory order regarding whether a certain transaction qualifies under section 311. INGAA's and Transco's suggested procedures would require that notices of all such requests be published and that the Commission schedule an order addressing any such request for the first agenda meeting following the end of the notice.

The Commission is denying these requests for additional procedures for addressing requests that raise the issue of whether a particular transaction qualifies under section 311. Additional procedures are not necessary, since any person already may file a request for a declaratory order or clarification by the

[33] NOPR at p. 32,446.

Commission or an interpretation by the General Counsel. Also, while some limited clarification may be necessary in the short-term regarding qualifying section 311 transportation services, the Commission does not anticipate any long-term need for additional procedures for addressing such requests.

Certification of section 311 facilities. Transco suggests the Commission grandfather all existing section 311 facilities which are affected by the revised rule, including those already under construction at the time the interim rule was issued. Alternatively, Transco requests that the Commission clarify that any section 311 facilities may be converted to section 7(c) facilities under Part 157's automatic and prior notice blanket construction procedures. Entrade suggests the Commission issue a rule granting section 7(c) operational authority to all uncertificated facilities constructed under section 311, subject to the condition that pipelines file complete certificate applications for such facilities within 90 days.

Commission response. The Commission does not believe that it would be appropriate to grandfather all existing uncertificated section 311 facilities, as requested by Transco and Entrade, by issuing certificate authority in this final rule for all section 311 facilities. Although Entrade suggests that such certification could be made subject to the condition that pipelines subsequently file timely certificate applications, the Commission still does not believe that it would be appropriate to grant certification in this rule for all existing section 311 facilities.

Since issuance of the interim rule in this proceeding, the Commission has been able to issue orders in a timely manner addressing the applications that pipelines have filed requesting certificates for facilities constructed under section 311.[34] Further, preparing these orders has convinced the Commission that, in some instances, determinations regarding whether particular facilities are required by the public convenience and necessity must be reached on a case-by-case basis.

However, the Commission also recognizes that many section 311 facilities would have been eligible under the automatic or prior notice provisions for construction by interstate pipelines under their part 157 blanket certificates. Moreover, the construction of pipelines' facilities under section 311 has been subject to the environmental conditions of section 157.206(d), just as they would have been if the pipelines had constructed them under their blanket certificates.

In view of these considerations, the Commission is granting Transco's alternative request for clarification that interstate pipelines may obtain NGA certification for qualifying section 311 facilities under part 157's automatic and prior notice blanket construction procedures. Thus, if an interstate pipeline has constructed facilities under section 311 and those facilities would be eligible for construction under the blanket regulations' automatic procedures, the pipeline may obtain NGA certification for the facilities by satisfying the reporting requirements for blanket construction under the automatic provisions. If an interstate pipeline has constructed facilities under section 311 and those facilities would be eligible for construction under the blanket regulations' prior notice procedures, the pipeline may seek NGA certification for the facilities under the procedures for blanket construction activities that are subject to prior notice.[35]

Intrastate pipelines' ongoing section 311 transactions. Houston Pipeline Co. requests that the Commission grandfather intrastate pipelines' ongoing section 311 transportation services that do not qualify under the final rule. Houston Pipeline Co. requests that these non-qualifying transactions be grandfathered for three months from the date of issuance of the final rule.

Commission response. The Commission determined in its interim rule in this proceeding that it was necessary to permit the short-term continuation of interstate pipelines' non-qualifying services in order to provide time for parties to make alternative supply arrangements and thereby avoid the hardships that would be created if supply arrangements were terminated abruptly. This also applies to intrastate pipelines' ongoing transportation services.

While the interim rule did not amend the regulations governing section 311 transportation by intrastate pipelines, the Commission stated in the interim rule that the Court's findings in *AGD-Hadson* are equally applicable to intrastate pipelines' transportation services. Therefore, intrastate pipelines have been on notice since August 2, 1990, the date of issuance of the interim rule, that they could commence new transportation services with assurance of section 311 authorization only if they also adhered to the interim rule's "on behalf of" interpretation.

Nevertheless to avoid the possibility of any hardship, the final rule grants Houston Pipeline Co.'s request, in part, by adopting a new paragraph (e) to § 284.122 of Subpart C of the regulations to permit intrastate pipelines' transportation services that commenced prior to August 2, 1990, but which do not qualify under the final rule's "on behalf of" interpretation, to continue until the end of the third full calendar month following the issuance of this final rule.

Request for clarification regarding pipeline tariff provisions. Texas Gas states that its tariff provisions require shippers receiving section 311 or blanket certificate service to have title to the gas while it is being transported by Texas Gas. However, Texas Gas explains that the shipper often is not the "on behalf of" entity, or Texas Gas may not know if the shipper and the "on behalf of" entity are the same party. Further, Texas Gas's tariff does not require a shipper to certify that the "on behalf of" entity for a section 311 transportation service being provided by Texas Gas either has or will transport the gas at some point or hold title to the gas for a purpose related to its status as an LDC or intrastate pipeline. In view of these limitations, Texas Gas seeks clarification as to how it should handle requests for section 311 service.

Commission response. An interstate pipeline must ensure that its existing and new services under section 311 qualify under that section and the Commission's regulations. Therefore, an interstate pipeline should require, as a condition of services, that every shipper provide appropriate certification including sufficient information to verify that each of its section 311 transportation services qualifies under this final rule's regulations.

The Commission recognizes that some interstate pipelines' tariffs may not clearly provide for them to require that shippers provide the necessary information to validate their section 311 services. Therefore, the final rule adopts a new paragraph (e) to § 284.102 to require that an interstate pipeline obtain from its shippers certifications including sufficient information to verify that their services qualify under section 311. New § 284.102(e) also directs each interstate

[34] See, *e.g.*, Arkla Energy Resources, 54 FERC ¶ 61,033 (1991); Colorado Interstate Gas Company, 54 FERC ¶ 61,196 (1991).

[35] We note that concurrent with the issuance of this final rule, we also are issuing a final rule in Docket No. RM90–1–000 Which, *inter alia*, amends the regulations to increase the dollar ceilings for blanket certificate construction under both the automatic and prior notice procedures. These increased dollar ceilings are applicable in determining whether an interstate pipeline may obtain NGA certification for a section 311 facility under the blanket regulations' automatic or prior notice procedures.

pipeline to file, within 60 days of the effective date of this final rule, any new or revised tariff provisions that may be necessary to clarify that the pipeline may require such certifications. Finally, new § 284.102(e) provides that an interstate pipeline must have received a certification by the "on behalf of" entity (rather than the shipper, if the shipper is not also the "on behalf of" entity) before commencing section 311 transportation service, if the service is to be provided under new § 284.102(d)(3) on behalf of a certifying but non-transporting, non-title holding LDC or intrastate pipeline.

B. Amendments to Blanket Certificate Regulations

Proposed Amendments

The NOPR also requested comments on proposed modifications to the blanket certificate regulations. These regulations currently limit interstate pipelines' blanket certificate transportation services to 120 days if the service is protested by any party. The NOPR proposed to amend the blanket certificate transportation regulations to operate similarly to the regulations in subpart B of part 284 governing section 311 transportation services. Thus, if any party filed a complaint regarding an interstate pipeline's commencement of a blanket transportation service, the interstate pipeline would be able to continue the service without interruption until the Commission issued an order requiring that the transportation service cease.

The NOPR also proposed to eliminate the current requirement that notice of a blanket transportation service be published in the **Federal Register** and replace this requirement with a notification requirement like that in subpart B for service under section 311 of the NGPA. Thus, under the proposed regulations, a pipeline that would be providing transportation service to a customer located in a LDC's service area would be required to give prior written notice only to the LDC and its regulatory agency.

Discussion of Comments

Commenters supporting the proposals. Twenty-two of the commenting parties support the Commisson's proposal to revise the prior notice and protest procedures in section 7. [36] Most of them agree with the Commission that the revisions will alleviate unnecessary burdens caused by the current notice and protest requirements on the Commission, pipelines, and shippers. They also believe the proposal should be adopted to eliminate the present inappropriate incentive for parties to gas supply arrangements to rely on section 311 authority rather than section 7 blanket authority.

ANR, INGAA, and Indicated Shippers believe the current notice and protest procedures for blanket transportation services are unnecessary because the Natural Gas Act's notice and hearing requirements already have been fulfilled in the Commission's proceeding in which interstate pipelines' part 284 blanket certificate applications were granted. They emphasize that section 7(c) of the Natural Gas Act does not require new notice and hearing every time a certificate holder proceeds to act under its certificate. UGP notes that, regardless of the Commission's reliance heretofore on notice and procedures for blanket transportation services, such procedures are not required by the NGA. UGP and Tennessee state that, since experience has proven that the current notice and protest procedures are unnecessary, the Commission has the authority to change the procedures. UGP and Tennessee also note that the Commission stated in Order No. 436 that it would modify or eliminate the procedures if justified by experience.

Commenters opposing the proposals. Nine commenters oppose the proposed revision.[37] Most argue that the proposal is contrary to the public interest and in conflict with Order No. 436. They further contend that the Commission's assertion of administrative burden is unsubstantiated and inadequate justification for depriving interested parties of notice and opportunity to be heard.[38] AGD, Mississippi Valley, APGA, and Willcox City believe that, rather than substituting the section 311 notification requirement for the blanket regulations' notice and procedures, the blanket regulations' provisions should be substituted for the section 311 provisions.

Peoples, Oklahoma, and AGD believe that the current notice and protest procedures for blanket transportation services are necessary to satisfy to the NGA's notice and hearing requirements. If the section 311 notification requirement is substituted for the blanket regulations' notice and protest procedures, these commenters request conditions to ensure that interstate pipelines give such notifications to affected LDCs and state commissions in a timely manner and to require that pipelines' notifications, as well as their reports to the Commission, describe any affiliated relationships, list receipt and delivery points, and state the term of the contract and whether the service is firm or interruptible.

The NYPSC is opposed to eliminating the current notice and protest procedures for blanket transportation services. However, the NYPSC recommends shortening the protest period from 45 days to 30 days for protests based on non-environmental grounds, so that the Commission may act on protests before the 120-day automatic authorization transportation period ends.

Commission response. Contrary to arguments by some commenters, the Commission is not required to make every individual blanket transportation service subject to notice and protest procedures like those of the current regulations in order to satisfy the notice and hearing requirements of section 7(c) of the NGA. This rulemaking proceeding satisfies those statutory requirements.

Further, the majority of the commenters agree with the Commission's conclusion that the current procedures create an non-market incentive for parties to gas supply arrangements to rely on section 311 authority rather than section 7 blanket authority. The majority of the commenters also support the Commission's conclusion in the NOPR that the blanket regulations' current notice and protest procedures are creating unnecessary burdens on the Commission, pipelines, and shippers.[39]

[36] American Paper Institute, ANR, Arkla, Cal PUC, CNG, El Paso, EGMI, Enron, Indicated Shippers, INGAA, Natural, Northern Illinois, Northwest, Panhandle Eastern, Process Gas, SoCal, Tennessee, Texas Gas, Transco, UGP, VHC Gas, and Williams Natural.

[37] APGA, AGD, Cascade, NYPSC, Mississippi Valley, Oklahoma, Peoples, UDC, and Willcox City.

[38] AGD, Mississippi Valley, APGA, Cascade, Oklahoma, Peoples, and UDC.

[39] When an interstate pipeline's application under the blanket regulations' prior notice procedures is converted to a case-specific application by reason of an unwithdrawn protest, the interstate pipeline is required to submit to the Commission the difference between the prior notice filing fee and the filing fee for section case-specific applications. See Order 433, Fees Applicable to Natural Gas Pipelines, FERC Stats. & Regs., Regs. Preambles, ¶ 30,662, at n.5.

As of April 1, 1991, the filing fee for section 7(c) applications is $34,550, while the filing fee for prior notice applications is $590. This difference in fees is necessary to account for the much greater expenditure of Commission resources generally required to process case-specific applications. However, unmeritorious protests to blanket certificate activities unnecessarily cause great increases in the burdens on both the Commission and pipelines. Frequently, protests to pipelines' prior notice filings either contain no specific allegations of undue discrimination or anticompetitive practices or provide no support or inadequate support for such allegations. In some

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As a result of the operation of the current procedures, the Commission has had to issue approximately 150 orders as of April 29, 1991, to waive the 120-day limit on approximately 260 blanket transportation services commenced by interstate pipelines under the automatic authorization provisions of § 284.223(a) of the regulations. Although the 120-day limitation on automatic authorization was originally adopted to prevent the indefinite continuation of successfully protested services, relatively few services have been protested. Therefore, the Commission's burden in issuing orders to waive the 120-day service has resulted almost entirely because pipelines have not filed their blanket service commencement reports in time for transactions to be noticed and the 45-day notice period to run before the end of the 120-day automatic authorization period. However, we realize that it would be difficult for pipelines to file these reports more quickly, in view of the large numbers of transactions that they must report.

In proposing to modify the blanket regulations' notice and protest procedures, the Commission acknowledges that it was influenced by the relatively small number of protests that have been filed against blanket transportation services since issuance of Order No. 436, [40] and the fact that not one of these protested proceedings has resulted in a finding that the pipeline had engaged in unduly discriminatory or anticompetitive practices. It also is material, since LDCs' are the strongest supporters of retaining the current notice and protest procedures, that only 18 of these protested transportation services were protested by LDCs and only ten of those were based on arguments that the Commission should not allow pipelines to bypass service by LDCs.

The other 8 protests by LDCs, as well the remaining 66 protests that have been filed in response to pipelines' prior notices of blanket transportation services, were in the nature of complaints concerning issues relating, for example, to the extent that a gas customer should remain liable for its LDC's costs when the customer switches to direct transportation service from a pipeline; whether a pipeline should condition new transportation services to ensure that capacity will be available to meet its sales customers' future request for conversions to transportation service; and other issues regarding whether a pipeline's practices are inconsistent with the first-come, first-served rule.[41] Complaint proceedings, not prior notice proceedings, are the appropriate forums for addressing objections of these types, where a complainant's concerns relate to a general policy issue and its complaint does not raise any allegations that are limited or apply only to particular transportation services described in a pipeline's prior notice filings.

Further, even if some protested proceedings had resulted in the Commission finding that action was necessary to require termination of the protested blanket transportation services, the relatively small number of protests demonstrates that the burdens created by the current procedures are not justified.

More importantly, however, the current procedures are not necessary to give LDCs and other parties the opportunity to have their objections to blanket transportation services addressed by the Commission in a timely manner. The Commission stated in Order No. 436 that it would modify the blanket regulations' notice and protest procedures if experience under Order No. 436's new transportation regulations demonstrated that the procedures serve no useful function.[42]

It is true that adoption of the proposed amendments will remove the necessity for Commission action within 120-days to prevent the interruption of ongoing gas supply arrangements, regardless of the complexity of the circumstances and issues involved. However, the amendments will not prevent LDCs and other parties from filing complaints against blanket transportation services. Further, the Commission believes that it will be able to act within 60 days on most complaints against blanket transportation services and section 311 transportation services. While the Commission stated in Order No. 436 [43] that LDCs' bypass concerns were an important reason for maintaining the blanket regulations' notice and protest procedures and the 120-day limit on automatic authorization, the Commission has determined in view of all of the above considerations that it is not necessary to maintain the current procedures to ensure adequate protection of the interests of LDCs or any other interested persons.

The Commission notes that in protested blanket service proceedings, it has issued an order addressing the protest before the end of the 120-day automatic authorization period or as soon thereafter as possible. Thus, in practice, the Commission already has been addressing protests to blanket transportation services in the same fashion that it addresses complaints against section 311 transportation services. The Commission believes that it has responded to objections to both types of service in a timely manner. Further, having reviewed the comments in this proceeding, the Commission is convinced that there is good reason for different processing and treatment of complaints against blanket services and section 311 services.

In view of the above considerations, the final rule is adopting the proposal to substitute the section 311 notification requirement for the blanket regulations' current notice and protest procedures for transportation services. We do not agree with the suggestion that insufficient notice will be afforded because the section 311 regulations require only that notification be given to an affected LDC and state agency prior to the commencement of section 311 service to a customer in the LDC's service area. Regulations authorizing construction of delivery facilities both under blanket certificate and section 311 have had and continue to have notification requirements. Therefore, if facilities have already been constructed, the LDC has had the opportunity to protest.

Further, if a sales or delivery tap must be constructed before an interstate pipeline can begin a new service for a customer in an LDC's service area, a pipeline's construction of such delivery facilities under blanket certificate authority will continue to be subject to the prior notice and protest procedures.

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instances, protests have merely stated that the prior notice filing is being protested and that the protester requests conversion of the prior notice filing to a case-specific proceeding.

This final rule removes only blanket transportation services from the scope of the prior notice and protest procedures. However, in view of the above considerations, the Commission intends to begin dismissing deficient protests, since they serve no purpose other than to impede the administrative process and create obstacles to the rendering of gas services that have been determined in previous rulemaking proceedings to warrant a presumption that they are required by the public convenience and necessity. For example, if an intervenor is protesting a prior notice filing for the construction of a sales tap because it will permit bypass, the intervenor must allege more than that fact. It also must raise and support some allegation, such as undue discrimination or unfair competitive practices on the pipeline's part, which, unlike bypass alone, would provide a basis for the Commission to grant the protest.

[40] Eighty-four (1.5 percent) of the approximately 5,409 blanket transportation services commenced since issuance of Order No. 436 have been protested.

[41] *See, e.g.*, Columbia Gulf Transportation Company, 55 FERC ¶ 61,131 (1991).

[42] FERC Stats. & Regs., Regs. Preambles, ¶ 30,665 at p. 31,554 (1985).

[43] *Id.*

Also, in addition to the prior notification that pipelines are required to give to LDCs and state agencies before commencing section 311 transportation service or, as of the effective date of this final rule, blanket transportation service, the regulations being adopted in the Commission's concurrent final rule on construction in Docket No. RM90–1–001 include a new condition that a pipeline may not construct certain gas facilities, including a delivery tap, under either blanket certificate authority or section 311 authority until 6 weeks after it has published notice in a local newspaper of general circulation.

Finally, under this rule, if an LDC will not be participating in a gas supply arrangement for a customer in its service area by either transporting or holding title to the gas at some point, an interstate pipeline will not be able to rely on section 311 authority to transport the gas, unless the LDC certifies that the interstate pipeline's transportation service is on the LDC's behalf.

The Commission does not believe that it is necessary to require, as requested by one commenter, that pipelines' notifications to LDCs and State agencies describe any affiliated relationships, list receipt and delivery points, and state the term of the contract and whether the service is firm or interruptible. The identities of parties, contract term, receipt and delivery points, and the firm or interruptible nature of a service are reflected in the initial report that a pipeline is required to file pursuant to § 284.106(a) and § 284.223(f) of the regulations within thirty days after commencing a section 311 transportation service or a blanket transportation service, respectively. The identities of service agreement parties and the firm or interruptible nature of services are also reflected in the notices of self-implementing part 284 transactions published by the Commission in the **Federal Register**. These procedures demonstrate that LDCs already have access to sufficient information to enable them to determine in a timely manner whether they wish to file complaints against particular transactions. A requirement that this information be provided to LDCs well in advance of pipelines' commencing service would create an advantage for LDCs under the regulations which would be counterproductive to the Commission's goal of promoting competition by ensuring a level playing field.

Request for notice to all LDCs served by pipeline. Cal PUC asserts that a pipeline should be required to give notice of any section 311 or blanket transportation service to every LDC on its system and to every such LDC's state regulatory agency, particularly if the new service is firm service.

Commission response. It is not necessary that a pipeline give notification to every LDC served by its system before commencing section 311 or blanket transportation service for a new customer. A pipeline may not commence any new interruptible or firm transportation service for a customer under part 284 unless that customer is next in line for such service under the pipeline's approved tariff provisions implementing the first-come, first-served rule.

Request for elimination of all notice requirements. Panhandle Eastern objects to the proposed notification requirement on the grounds that a pipeline will not be able to determine whether notification to an LDC and state agency is necessary unless the pipeline first determines whether the shipper will be the ultimate recipient of gas and, if not, who the ultimate recipient will be. INGAA, Northwest, and Transco believe a pipeline should be relieved of any notification requirement if it will be delivering gas directly to an LDC's facilities.

Commission response. The Commission does not believe pipelines will experience any significant burdens due to the requirement that they give prior notification of blanket certificate service to a customer's LDC and that LDC's state regulatory agency. This conclusion is supported by the fact that pipelines have always been subject to this requirement in providing section 311 transportation services. However, the Commission agrees that the requirement of notification to an LDC and its state agency is unnecessary if the pipeline is to deliver gas directly to the LDC. The final rule makes this exception.

V. Environmental Review

Commission regulations require that an Environmental Assessment or an Environmental Impact Statement must be prepared for any Commission action that may have a significant adverse effect on the human environment.[44] The Commission has categorically excluded certain actions from these requirements not having a significant effect on the human environment.[45] The Commission's reinterpretation of section 311 of the NGPA is required to satisfy the Court's decision in *AGD-Hadson*. The amendments to the blanket certificate regulations modifying notice and protest procedures are also necessary to respond to the Court's decision in *AGD-Hadson*.[46]

VI. Information Collection Statement

The Office of Management and Budget's (OMB) regulations require that OMB approve certain information collection and recordkeeping requirements imposed by an agency.[47] This final rule consolidates the collections of information contained in FERC–549, Gas Pipeline Rates: NGPA title III Transactions, Revisions to Regulations Governing Transportation under Section 311 of the Natural Gas Policy Act of 1978 (1902–0086) and FERC 549–A, Gas Pipeline Rates: NGPA Title III Transactions RE Interim Rule, Revisions to Regulations Governing Transportation under section 311 of the Natural Gas Policy Act of 1978 (1902–0160). The consolidated information collection requirements are being submitted to OMB for its review. Data Collection under FERC-537, Gas Pipeline Certificates: Construction, Acquisition, and Abandonment (1902–0060), is the same as set forth in the Notice of Proposed Rulemaking. Therefore there will be no change in current burden associated with the reporting requirements in this Final Rule.

Interested persons may obtain information on the requirements of the regulations by contacting the Federal Energy Regulatory Commission, 941 North Capitol Street NE., Washington, DC 20426 (Attention: Michael Miller (202) 208–1415). Comments on the requirements of the regulations can be sent to the Office of Information and Regulatory Affairs of OMB.

An estimated 294 respondents will be affected by the final rule. The respondents will consist mostly of natural gas pipeline companies. The public reporting burden with respect to the filing requirements of FERC–549 is estimated to average 2.7 hours per response.

List of Subjects

18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

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[44] Order No. 486, Regulations Implementing National Environmental Policy Act, 52 FR 47,7897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987), codified at 18 CFR part 380.

[45] 18 CFR 380.4 (1990).

[46] See 18 CFR 380.4(a)(2)(ii) and (a)(27) (1990).

[47] 5 CFR 1320.13.

18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends parts 157 and 284, chapter I, title 18, Code of Federal Regulations, as set forth below, effective November 4, 1991.

By direction of the Commission. Commissioner Trabandt concurred with a separate statement to be issued later.

Lois D. Cashell,

Secretary.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL ACT

1. The authority citation for part 157 is revised to read as follows:

Authority: 15 U.S.C. 717–717w; 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142; 15 U.S.C. 3301–3432.

§ 157.205 [Amended]

2. In § 157.205, paragraph (a) introductory text, the words "or § 284.223(b)" and "or by part 284" are deleted, and the word "or" is inserted before the word "157.216(b)".

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

3. The authority citation for part 284 is revised to read as follows:

Authority: 15 U.S.C. 717–717w; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Outer Continental Shelf Lands Act of 1953, 43 U.S.C. 1331–1356; 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

4. In § 284.102, paragraphs (d) and (e) are revised to read as follows:

§ 284.102 Transportation by interstate pipelines.

* * * * *

(d) Transportation of natural gas is not on behalf of an intrastate pipeline or local distribution company or authorized under this section unless:

(1) The intrastate pipeline or local distribution company has physical custody of and transports the natural gas at some point; or

(2) The intrastate pipeline or local distribution company holds title to the natural gas at some point, which may occur prior to, during, or after the time that the gas is being transported by the interstate pipeline, for a purpose related to its status and functions as an intrastate pipeline or its status and functions as a local distribution company; or

(3) The gas is delivered at some point to a customer that either is located in a local distribution company's service area or is physically able to receive direct deliveries of gas from an intrastate pipeline, and that local distribution company or intrastate pipeline certifies that it is on its behalf that the interstate pipeline is providing transportation service.

(e) An interstate pipeline shall obtain from it shippers certifications including sufficient information to verify that their services qualify under this section. An interstate pipeline shall file by January 3, 1992, any tariff revisions or additions necessary to clarify that it may require such certifications. Prior to commencing transportation service described in paragraph (d)(3) of this section, an interstate pipeline must receive the certification required from a local distribution company or an intrastate pipeline pursuant to paragraph (d)(3).

5. In § 284.122, paragraph (a) introductory text is revised and new paragraphs (d) and (e) are added to read as follows:

§ 284.122 Transportation by intrastate pipelines.

(a) Subject to paragraphs (d) and (e) of this section, other provisions of this subpart, and the applicable conditions of Subpart A of this part, any intrastate pipeline may, without prior Commission approval, transport natural gas on behalf of: * * *

* * * * *

(d) Transportation of natural gas is not on behalf of an interstate pipeline or local distribution company served by an interstate pipeline or authorized under this section unless:

(1) The interstate pipeline or local distribution company has physical custody of and transports the natural gas at some point; or

(2) The interstate pipeline or local distribution company holds title to the natural gas at some point, which may occur prior to, during, or after the time that the gas is being transported by the intrastate pipeline, for a purpose related to its status and functions as an intrastate pipeline or its status and functions as a local distribution company.

(e) If the transportation service commenced prior to August 2, 1990, and the requirements of paragraph (e) of this section are not satisfied, transportation service is not authorized under this section after January 31, 1992.

6. In § 284.223, paragraph (a) is revised, paragraphs (b) and (c) are removed, paragraphs (d), (e), (f), (g), and (h) are redesignated as paragraphs (b), (c), (d), (e), and (f), redesignated paragraph (d)(1)(vi) is revised and paragraphs (d)(2), (d)(3), and (d)(4) are added to read as follows:

§ 284.223 Transportation by interstate pipelines on behalf of shippers other than interstate pipelines.

(a) Subject to the provisions of this subpart and the conditions of Subpart A of this part, any interstate pipeline issued a certificate under § 284.221 is authorized, without prior notice to or approval by the Commission, to transport natural gas for any duration for any shipper for any end-use by that shipper or any other person.

* * * * *

(d) *Reporting requirements*—(1) *Initial full report.* * * *

(vi) If such transportation is provided to a customer that is located in the service area of a local distribution company and the interstate pipeline will not be delivering the customer's gas to that local distribution company, a statement that the interstate pipeline notified the local distribution company and the local distribution company's appropriate regulatory agency in writing of the proposed transportation prior to commencement.

(2) *Subsequent reports.* (i) An interstate pipeline that files an initial report under paragraph (d)(1) of this section must amend that report to reflect any material change in the pertinent transportation arrangement.

(ii) Any changes in the initial report required by this paragraph must be filed with the Commission within thirty days of the related changed circumstances, and must be signed under oath by a senior official of the company, and consist of an original and five conformed copies.

(3) *Annual report.* Not later than May 1 of each year, each interstate pipeline must file with the Commission an annual report that contains, for each docketed transportation service provided during the preceding calendar year under authority of this section, the following information:

(i) The docket number assigned to the transaction;

(ii) Total volumes transported for the transaction; and

(iii) Total revenues received for the transaction.

(4) *Notification of termination.* Not later than 30 days after the termination of any transportation arrangement under this section, the interstate pipeline

company must file with the Commission an original and five conformed copies of a statement including the following information:

(i) The docket number assigned to the transaction and the date the transaction was terminated;

(ii) The total volumes transported under the arrangement;

(iii) The total revenues received; and

(iv) A statement certifying that the service was provided under the terms and conditions previously reported in this docket.

* * * * *

7. New § 284.227 is added to read as follows:

§ 284.227 Certain transportation by intrastate pipelines.

(a) *Blanket certificate.* A blanket certificate shall issue under this section to any intrastate pipeline that transports and delivers in its state of operation directly to an end user in that state gas received by the intrastate pipeline from a gatherer that gathered the gas in adjacent Federal waters or onshore or offshore in an adjacent state.

(b) *Effective date.* If an intrastate pipeline is providing a transportation service described in paragraph (a) of this section as of February 1, 1992, and the service is not a qualifying service under § 284.122 of subpart C of this part, a blanket certificate shall issue under paragraph (a) of this section and become effective as of February 1, 1992. If an intrastate pipeline is not providing a transportation service described in paragraph (a) of this section as of February 1, 1992 the blanket certificate shall issue and become effective on the date that the intrastate pipeline commences such a service that is not a qualifying service under § 284.122 of subpart C of this part.

(c) *Acceptance of certificate.* An intrastate pipeline shall be deemed to have accepted a blanket certificate under this section if it continues after February 1, 1992, a service described in paragraph (a) of this section that is not a qualifying service under § 284.122 of subpart C or commences such a service after November 4, 1991.

(d) *Conversion report.* The first report filed pursuant to § 284.126 of subpart C by an intrastate pipeline for a service authorized under this section shall state that the service is being provided under this section. If service under this section is an extension of service originally commenced under subpart C of this part, the first required report shall be the subsequent report pursuant to § 284.126(b) of subpart C, which shall identify the ST docket number in which the initial report for the service was filed when the service initially commenced under subpart C.

(e) *Terms and conditions.* An intrastate pipeline's blanket certificate transportation authority under this section is subject to its compliance with all terms and conditions of subpart C of this part, except that service under this section does not have to be on behalf of an interstate pipeline or local distribution company served by an interstate pipeline.

(f) *Pregrant of abandonment.* Abandonment of transportation services, pursuant to section 7(b) of the Natural Gas Act, is authorized upon the expiration of the contractual term of each individual arrangement authorized by a blanket certificate under this section.

(g) *Effect of certificate.* Acceptance of a certificate issued under this section or conduct of activity authorized under this section will not subject the certificate holder to the Natural Gas Act jurisdiction of the Commission except to the extent necessary to enforce the terms and conditions of the certificate.

Appendix to Preamble

Commenters

Docket No. RM90–7–000

American Paper Institute
American Public Gas Assoc. (APGA)[1]
ANR Pipeline and Colorado Interstate Gas Co. (ANR)[1]
A.P. Green Industries
Arkla Pipeline Group (Arkla)
Associated Gas Distributors (AGD)[1]
Association of Texas Intrastate Natural Gas Pipelines (Texas Intrastates)
California State Public Utilities Co. (Cal PUC)
CNG Transmission Corp. (CNG)
Cascade Natural Gas Corp. (Cascade)
Dayton-Montgomery County Park District (Dayton-Montgomery)
El Paso Natural Gas Co. (El Paso)
Enron Gas Marketing, Inc. (EGMI)
Entrade Corp. and PSI Marketing (Entrade)
Germantown City and Germantown Area Concerned Citizens' Association (Germantown)
Houston Pipeline Co.
Indicated Shippers[1]
Independent Petroleum Association of America (IPAA)
Interstate Natural Gas Assoc. of America (INGAA)[1]
Iowa Illinois Gas and Electric Co. (Iowa Illinois)
JMC Fuel, Inc. *et al.* (JMC Fuel)
Long Island Lighting Co. and Virginia Natural Gas, Inc. (LILCO)[1]
Miami Valley Counsel for Native Americans, *et al.* (Miami Valley Counsel)[1]
Michigan Consolidated Gas Co. (Michcon)[1]
Mississippi Valley Gas Co. (Mississippi Valley)
Natural Gas Pipeline Co. of America (Natural)
New York Public Service Commission (NYPSC)
Northern Illinois Gas Co. (Northern Illinois)
Northern Natural Gas, *et al.* (Enron)[1]
Northwest Pipeline Co. (Northwest)
Oklahoma Natural Gas Co. and ONG Transmission Co. (Oklahoma)
Panhandle Eastern Pipeline Co., *et al.* (Panhandle Eastern)
Peoples Natural Gas Co., *et al.* (Peoples)
Process Gas Consumers Group, *et al.* (Process Gas)[1]
Southern California Gas Co. (SoCal)
States Consumer Advocates
Tejas Power Corp.
Texas Gas Transmission Corp. (Texas Gas)
Tennessee Gas Pipeline Corp. (Tennessee)[1]
Transcontinental Gas Pipeline Corp. (Transco)
Transok, Inc.
United Distribution Co. (UDC)[1]
United Gas Pipeline Companies (UGP)[1]
VHC Gas Systems, L.P. (VHC Gas)[1]
Williams Gas Marketing Co. (Williams Gas)
Williams Natural Gas Co. (Williams Natural)
Willcox City, Arizona and Arizona Electric Power Cooperative, Inc. (Willcox City)[1]

[1] Also filed reply comments.

[FR Doc. 91–23898 Filed 10–3–91; 8:45 a.m.]

BILLING CODE 6717–01–M

RAILROAD RETIREMENT BOARD

20 CFR Part 200

RIN 3220–AA90

General Administration

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) hereby amends § 200.8 of its regulations in order to make it clear that the Board has the authority to prevent a Board employee from being compelled to testify in a deposition, trial, or other similar proceeding, concerning information acquired in the course of performing official duties or because of the employee's official capacity, where the provision of such testimony would interfere with the employee's official duties and where the information sought may be obtained by means other than by testimony of the employee.

EFFECTIVE DATE: October 4, 1991.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4513, FTS 386–4513, TDD (312) 751–4701, TDD FTS 386–4701.

SUPPLEMENTARY INFORMATION: The Railroad Retirement Board (Board) is charged with the administration of both the Railroad Retirement Act (RRA) (45 U.S.C. 231 *et seq.*) and the Railroad Unemployment Insurance Act (RUIA)

(45 U.S.C. 351 *et seq.*). More and more frequently in recent years, Board employees have been requested or subpoenaed to provide testimony, in a deposition, trial, or other similar proceeding, concerning information acquired in the course of performing official duties or because of the employee's official capacity. This increase has been particularly marked in divorce proceedings after the amendment of section 14 of the RRA (45 U.S.C. 231m) in 1983 to permit certain portions of a railroad retirement annuity to be divided as part of a division of property in such proceeding. The information sought by such subpoenas, particularly an estimate of benefits payable at retirement or the amount of benefits currently being paid or a description of the types of benefits payable under the RRA, can generally be easily furnished in a letter without the necessity of a Board employee taking time from his or her official duties to testify in a proceeding involving non-Federal litigants. See § 295.4(d) of this chapter.

Section 200.8(d) of the Board's regulations sets forth the procedures to be followed when a Board employee receives a subpoena. The Board is amending this section by the inclusion of a policy statement as the new first paragraph of § 200.8(d) in order to make it clear that the Board has the authority to prevent its employees from testifying where the provision of such testimony would interfere with the employee's official duties. The remaining paragraphs are appropriately renumbered.

The Board also is redesignating paragraphs (f), (g) and (h) and adding a new paragraph (f) to § 200.8 which provides for a procedure for requesting the voluntary testimony of a Board employee. Finally, the Board is adding a new paragraph (j) which provides that the Board will request the assistance of the Department of Justice where such assistance is necessary in order to represent the interests of the Board and its employees. This new paragraph simply reflects what has been and currently is the practice of the Board in such matters.

The Board published this rule as a proposed rule on June 24, 1991 (56 FR 28731), inviting comments by July 24, 1991. No comments were received.

The Board has determined that this is not a major rule under Executive Order 12291. Therefore, no regulatory impact analysis is required. In addition, this rule does not impose any information collections within the meaning of the Paperwork Reduction Act.

List of Subjects in 20 CFR Part 200

Railroad employees, Railroad retirement, Railroad unemployment insurance.

For the reasons set out in the preamble, title 20, chapter II of the Code of Federal Regulations is amended as follows:

PART 200—GENERAL ADMINISTRATION

1. The authority citation for part 200 continues to read as follows:

Authority: 45 U.S.C. 231(b)(5) and 45 U.S.C. 362; § 200.4 also issued under 5 U.S.C. 552; § 200.5 also issued under 5 U.S.C. 552a; § 200.6 also issued under 5 U.S.C. 552b; and § 200.7 also issued under 31 U.S.C. 3717.

2. Section 208.8(b) is amended by adding at the end thereof the following new definition, to read as follows:

§ 200.8 Disclosure of information obtained in the administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

* * * * *

(b) * * *

Testify and testimony. The terms *testify* and *testimony* include both in-person oral statements before a court or a legislative or administrative body and statements made in the form of depositions, interrogatories, declarations, affidavits or other means of formal participation in such proceedings.

* * * * *

§ 200.8 [Amended]

3. Section 200.8 is amended by redesignating paragraphs (d) (1), (2), and (3) as (d) (2), (3), and (4), respectively, and by adding the following new paragraph (d)(1) to read as follows:

* * * * *

(d) *Subpoenas—statement of policy and general rule.* (1) It is the policy of the Board to provide information, data, and records to non-Federal litigants to the same extent and in the same manner that they are available to the general public. The availability of Board employees to testify before state and local courts and administrative and legislative bodies, as well as in Federal court and administrative proceedings which involve non-Federal litigants, concerning information acquired in the course of performing their official duties or because of the employee's official capacity, is governed by the Board's policy of maintaining strict impartiality with respect to private litigants and minimizing the disruption of an employee's official duties. Thus, the Board may refuse to make an employee available for testimony under this paragraph or paragraph (e) or (f) of this section if it determines that the information sought is available other than through testimony and where making such employee available would cause disruption of agency operations. However, this paragraph does not apply to any civil or criminal proceeding where the United States, the Railroad Retirement Board, or any other Federal agency is a party; to Congressional requests or subpoenas for testimony; to consultative services and technical assistance provided by the Board or the agency in carrying out its normal program activities; to employees serving as expert witnesses in connection with professional and consultative services rendered as approved outside activities (in cases where employees are providing such outside services, they must state for the record that the testimony represents their own views and does not necessarily represent the official position of the agency); or to employees making appearances in their private capacity in legal or administrative proceedings that do not relate to the official business of the agency (such as cases arising out of traffic accidents, crimes, domestic relations, etc.) and not involving professional and consultative services as described above.

* * * * *

§ 200.8 [Amended]

4. Section 200.8 is amended by redesignating paragraphs (f), (g), and (h), as (g), (h), and (i) and by adding new paragraph (f) and a new paragraph (j) to read as follows:

* * * * *

(f) *Requests for voluntary testimony.* All requests for testimony by a Board employee in his or her official capacity must be in writing and directed to the Deputy General Counsel. They shall state the nature of the requested testimony, why the information is not available by any other means, and the reasons, if any, why the testimony would be in the interest of the Board or the Federal government.

* * * * *

(j) The Deputy General Counsel or his designee will request the assistance of the Department of Justice where necessary to represent the interests of the agency and its employees under this section.

Dated: September 25, 1991.

By Authority of the Board.

Beatrice Ezerski,

Secretary of the Board.

[FR Doc. 91–23816 Filed 10–3–91; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 429

[Docket No. 91N-0173]

Fees for Certifying Insulin Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Interim rule; opportunity for public comment.

SUMMARY: The Food and Drug Administration (FDA) is issuing interim regulations to revise the fee schedule for insulin certification services. Under the revision, FDA will charge a fixed fee for each master lot or batch submitted for certification. The changes in fee schedule reflect a change in agency testing policy for certification and release of batches of insulin. The changes in fees will allow FDA to continue to maintain an adequate insulin certification program as required by the Federal Food, Drug, and Cosmetic Act (the act). The fees are intended to recover the full costs of operation of FDA's insulin certification program, including the unfunded liability of the Civil Service Retirement Fund and appropriate overhead costs of the Public Health Service and Department of Health and Human Services.

DATES: Interim rule effective November 4, 1991, comments by December 3, 1991.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David Petak, Division of Financial Management (HFA 120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1766.

SUPPLEMENTARY INFORMATION:

I. Background

The insulin certification program was established on December 22, 1941, by amendment to the act. The insulin amendment, section 506 of the act (21 U.S.C. 356), requires the Secretary of Health and Human Services, and by delegation FDA, to promulgate regulations providing for the certification of batches of drugs composed wholly or partly of insulin. Under FDA's insulin certification program, samples of the master lot of insulin crystals and insulin finished dosage forms are submitted to FDA for certification. The requirements for certification are described in FDA's regulations (21 CFR part 429). A batch is certified if it conforms to the applicable standards of identity, quality, strength, and purity for that product. FDA certifies a batch as safe and effective for use after analysis of all information pertinent to that batch, including the results of tests and assays conducted by both the manufacturer and FDA. In addition, it should be noted that insulin drug products are subject to approval under the new drug procedures of the act (21 U.S.C. 355, 21 CFR Part 314).

Section 506(b) (5) of the act (21 U.S.C. 356(b) (5)) requires FDA to establish such fees as are necessary to provide, equip, and maintain an adequate certification service. These fees are intended to recover the full costs of operation of FDA's insulin certification program. The current fee schedule, which is specified in § 429.55(b) (21 CFR 429.55(b)), was adopted as a final regulation in the **Federal Register** of January 7, 1983 (48 FR 787), and it has not been revised since that time.

Previous fees have been imposed for each individual test conducted by FDA. As explained in more detail below, FDA has made some changes and anticipates further changes in the kinds and number of tests it conducts to ensure compliance with applicable standards of identity, quality, strength, and purity. FDA concludes that a revised fee schedule is needed to take account of these changes. The revised fee schedule also reflects changes to the agency's method of calculating the costs of operating the insulin certification program.

A. Changes in FDA-Conducted Tests

Revisions in fee schedules are made necessary by changes in FDA test methods and procedures. Over the past several years, new procedures have been developed and adopted for analyzing insulin products. In particular, FDA has adopted the high performance liquid chromatography (HPLC) assay procedure to measure insulin potency. The HPLC procedure is a physical-chemical test that replaces the rabbit bioassay. Adoption of HPLC testing has reduced the agency's need to use large numbers of rabbits in certification testing. Currently, rabbits are used solely for "bioidentity" confirmation tests, i.e., to confirm that the product being assayed is biologically active. HPLC potency testing is now in use for all insulin products, including the insulin dosage forms that formerly were tested for insulin content by the Kjeldahl nitrogen procedure. The use of the HPLC assay method has altered significantly the certification testing procedures and has made the current fee schedule obsolete.

The agency expects that further changes in certification testing methods and procedures may be undertaken. As a way of reducing the need for frequent changes in the fee schedule to accommodate changes in test methods and procedures, the agency is adopting a fixed fee schedule for insulin certification services. Under the revision, a single fee will be charged for each master lot and dosage form batch submitted for certification. The adoption of fixed fees should reduce variations in revenue and thus ensure that FDA will recover the total costs of the insulin certification program. In addition, fixed fees will make it easier for manufacturers to predict the costs of obtaining insulin certification. Thus, a single fixed fee will be imposed regardless of the kind and number of tests FDA needs to conduct to determine whether an insulin crystal master lot and an insulin dosage form batch meet the standards for certification.

B. Changes to Method of Calculating Program Costs

The act requires FDA to establish such fees as are necessary to provide, equip, and maintain an adequate certification service. These fees are intended to recover the full costs of operation in FDA's insulin certification program. Previous fees have not reflected all applicable overhead costs for the program. The new fee schedule reflects these overhead costs, including costs of management support provided by both the Public Health Service and the Office of the Secretary, personnel costs for the unfunded liability portion of the Civil Service Retirement Fund, and ancillary costs of space, equipment, travel, and supplies. In addition, the fees will increase at a rate equal to Federal salary increases, commencing with pay raises on or after January 1, 1993. The agency will notify manufacturers of insulin products of the exact fees when there is a fee increase. All cost estimates are described in detail in a 1991 FDA study of the insulin certification program. A copy of the study has been placed on file at the Dockets Management Branch (address above).

As noted, FDA is now imposing a single, fixed fee for each certificate issued. Separate fees are assigned for both dosage form batch and master lot certification. The fee for certification of a master lot is $3,900. The fee for certification for a dosage form batch is $2,800. Documents setting forth the basis on which the new fee schedule was established are available for review in the Dockets Management Branch

(address above), between 9 a.m. and 4 p.m., Monday through Friday.

II. Environmental Impact

The agency has determined under 21 CFR 25.24(c)(5) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Economic Impact

The agency has considered the economic impact of this interim rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). FDA estimates that the total increase in fees will be no greater than $500,000 per year. Furthermore, FDA expects that the increased revenues obtained will enable FDA to improve its administrative and laboratory testing certification procedures. The increased efficiency of the agency's processing of manufacturers' requests for certification should reduce the costs borne by manufacturers in withholding insulin products from the market pending certification. Therefore, the agency has determined that this interim rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the interim rule will not have a significant economic impact on a substantial number of small entities.

IV. Effective Date and Opportunity for Public Comment

The agency is issuing this amendment as an interim rule effective November 4, 1991. The establishment of fees necessary to provide, equip, and maintain an adequate certification service for insulin has been mandated by Congress under section 506(b) of the act (21 U.S.C. 356(b)). As certification services are provided to manufacturers directly by FDA, the setting of a fee schedule to pay for these services is a matter particularly within the purview and expertise of the agency. The fees established by this regulation have been based on cost accounting methods using data compiled by the agency. The fees reflect additional charges for overhead and unfunded liability of the Civil Service Retirement System. The cost accounting methods used are the same as those used in support of the fee schedule set in earlier rulemakings, on which FDA invited comments, but received none. Furthermore, if the new fee schedule is not put in place soon, FDA will not be able to respond to the industry demands for insulin certification services as described above, with resulting delays, added costs to industry and patients, and possible product shortages. For all of these reasons, FDA finds, for good cause, that providing for notice and public comment prior to the establishment of these fees is not in the public interest, and may be dispensed with under 5 U.S.C. 553(b)(B).

The agency believes, however, that it is appropriate to invite and consider public comments on these requirements. Therefore, under § 10.40(e) (21 CFR 10.40(e)) interested persons may, on or before December 3, 1991, submit to the Dockets Management Branch (address above) written comments regarding this document. The agency will use any comments received to determine whether the interim rule should be modified. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 429

Administrative practice and procedure, Drugs, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 429 is amended as follows:

PART 429—DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

1. The authority citation for 21 CFR Part 429 continues to read as follows:

Authority: Secs. 502, 506, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352, 356, 371).

2. Section 429.55 is amended by revising paragraph (b) to read as follows:

§ 429.55 Fees.

* * * * *

(b) The fees for insulin samples submitted for certification services under § 429.40(d) are as follows:

(1) $3,900 for each master lot or mixture of two or more master lots or parts thereof.

(2) $2,800 for each dosage form batch.

(3) The fees established in this paragraph will increase as Federal salary costs increase. The rate of increase will be equal to Federal salary increases, commencing with pay raises on or after January 1, 1993. Notification of the exact fees established after adjustment will be communicated directly to the manufacturers of insulin products.

* * * * *

Dated: July 31, 1991.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 91–23936 Filed 10–3–91; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 1220

[Docket No. 91N–0338]

Regulations Under the Tea Importation Act; Tea Standards

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing the establishment of tea standards for the year beginning May 1, 1991, and ending April 30, 1992. The tea standards are provided for under the Tea Importation Act (the Act). The Act prohibits the importation of a tea that is inferior to the annual tea standard. Under the Act, the importation of a tea may be withheld until FDA examines the tea and is sure that it complies with the annual standard.

DATES: Effective May 1, 1991; written comments by November 4, 1991.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0106.

SUPPLEMENTARY INFORMATION: Because of the unique nature of the decisionmaking process for establishing annual standards for tea, the procedural protections that are part of this process, and the short period within which a standard must be set, FDA has never, since the enactment in 1897 of the Act (21 U.S.C. 41), used notice and comment rulemaking for tea standards.

Each final rule setting the standards is based on the recommendations of the Board of Tea Experts (the board), which is comprised of tea experts who are representative of the tea trade. The board selects standards each year according to the provisions of the Act.

The board bases its selection on tea samples submitted by members of the tea trade to the board. Relying primarily on organoleptic examination, the board selects one tea to represent the standard for each major type of tea imported into the United States. In choosing a standard, the board tries to select one at least equal in quality to that of the previous year. The Act prohibits the importation of a tea that is inferior to the annual tea standard. Under the Act, the importation of a tea may be withheld until FDA examines the tea and is sure that it complies with the annual standard.

The annual meeting of the board is open to the public and is announced in advance in the **Federal Register**. At the annual meeting any interested person may present data, information, or views orally or in writing regarding new standards.

The annual tea standards are prepared and submitted to the Secretary of Health and Human Services by the board (21 CFR 1220.41).

Should a tea importer be dissatisfied with an FDA tea examiner's rejection of a shipment of tea, the importer can refer its complaint to the U.S. Board of Tea Appeals and then to the U.S. Court of Appeals. FDA is unaware that complaints or arguments have ever occurred concerning a designated standard, despite the many years since the enactment of the Act.

FDA concludes that notice and comment rulemaking to set tea standards is impracticable, contrary to the public interest, and unnecessary by virtue of the factors discussed above, i.e., the unique, longstanding procedures that apply to establishing a standard, the fact that standards are based principally on organoleptic examinations by tea experts, the public participation opportunities already provided, and the timeframes required for issuing annual standards. Hence, the agency is not following notice and comment rulemaking procedures in establishing the final tea standards for 1991.

Environmental Impact

The agency has determined under 21 CFR 25.24 (b) (1) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

The impact of this rule on small entities, including small businesses, was reviewed in accordance with the Regulatory Flexibility Act (Pub. L. 96–354) (5 U.S.C. 601). This rule announces the establishment of tea standards for the year beginning May 1, 1991, and ending April 30, 1992. Only teas that meet or exceed the standards will be permitted entry into the United States. These standards protect industry and consumers from acceptance of unfit tea. FDA has concluded that this action will not result in a significant economic impact on a substantial number of small entities. Therefore, FDA certifies, in accordance with section 605(b) of the Regulatory Flexibility Act, that no significant economic impact on a substantial number of small entities will derive from this action.

Interested persons may on or before November 4, 1991, submit to the Dockets Management Branch (address above) written comments regarding this regulation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

List of Subjects in 21 CFR Part 1220

Administrative practice and procedure, Customs duties and inspection, Imports, Public health, Tea.

Therefore, under authority delegated to the Secretary of Health and Human Services by the Tea Importation Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 1220 is amended as follows:

PART 1220—REGULATIONS UNDER THE TEA IMPORTATION ACT

1. The authority citation for 21 CFR Part 1220 continues to read as follows:

Authority: 21 U.S.C. 41–50; 19 U.S.C. 1311.

2. Section 1220.40 is amended by revising paragraph (a) to read as follows:

§ 1220.40 Tea standards.

(a) Samples for standards of the following teas, prepared, identified, and submitted by the Board of Tea Experts on June 5, 1991, are hereby fixed and established as the standards of purity, quality, and fitness for consumption under the Tea Importation Act for the year beginning May 1, 1991, and ending April 30, 1992:

(1) Black Tea (for all teas except those from the People's Republic of China (China), Taiwan (Formosa), Iran, Japan, the Union of Soviet Socialist Republics (Russia), Turkey, and Argentina.

(2) Black Tea (for Argentina teas).

(3) Black Tea (for teas from the People's Republic of China (China), Taiwan (Formosa), Iran, Japan, the Union of Soviet Socialist Republics (Russia), and Turkey).

(4) Green Tea (of all origins).

(5) Formosa Oolong.

(6) Canton Oolong (for all Canton types from the People's Republic of China (China) and Taiwan (Formosa)).

(7) Scented Black Tea.

(8) Spiced Tea.

These standards apply to tea shipped from abroad on or after May 1, 1991.

* * * * *

Dated: September 11, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91–23937 Filed 10–3–91; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Part 1205

[NHTSA Docket No. 81–12; Notice 9]

RIN 2127–AE06

Highway Safety Programs; Determination of Effectiveness

AGENCY: National Highway Traffic Safety Administration (NHTSA) and Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: Section 206(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, 23 U.S.C. 402(j), authorizes the Secretary, from time to time, to conduct a rulemaking process to determine those programs most effective in reducing accidents, injuries, and deaths, and to amend 23 CFR part 1205 accordingly. Pursuant to the Act, those programs judged to be most effective in the Department's final rule are eligible for Federal funding using an expedited process under the State and Community Highway Safety Grant Program (23 U.S.C. 402).

This final rule is being issued to expand the list of "most effective" or National Priority program areas to include Pedestrian and Bicycle Safety.

EFFECTIVE DATE: November 4, 1991.

FOR FURTHER INFORMATION CONTACT: In NHTSA: Mr. Ronald E. Engle, Chief, Safety Countermeasures Division, Traffic Safety Program, NTS–23, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366–2717.

In FHWA: Ms. Susan Gorcowski, Office of Highway Safety, HHS–22, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366–2156.

SUPPLEMENTARY INFORMATION: On May 3, 1991, NHTSA and FHWA published a joint Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (56 FR 20387), to solicit public comments on a proposal to add Pedestrian and Bicycle Safety to the list of National Priority program areas. The agencies received 39 comments, all of which supported the proposed action. In this final rule, the agencies have determined that Pedestrian and Bicycle Safety should be included on the list of most effective programs in reducing accidents, injuries and fatalities. This final rule amends the agencies' regulation accordingly. Pedestrian and Bicycle Safety will be administered jointly by both agencies.

Background

The State and Community Highway Safety Grant Program (the 402 program) was established under the Highway Safety Act of 1966, 23 U.S.C. 402. The Act required the establishment of Uniform Standards for State Highway Safety Programs to assist the States and local communities to organize their highway safety programs.

Until 1976, the 402 program was principally directed towards achieving State and local compliance with the 18 Highway Safety Program Standards, which were considered mandatory requirements with financial sanctions for noncompliance. Under the Highway Safety Act of 1976, Congress provided for a more flexible implementation of the program so that the Secretary would not have to require State compliance with every uniform standard or with each element of every uniform standard. As a result, the standards became more like guidelines for use by the States. Management of the program then shifted from enforcing standards to one of problem identification, countermeasure development and evaluation, using the standards as a framework for the State programs. This approach was formalized in section 206(a) of the 1987 Act.

The 402 program has been administered at the Federal level by FHWA and NHTSA. NHTSA is responsible for developing and implementing highway safety programs relating to the vehicle and driver. FHWA has similar responsibilities in program areas involving the highway.

In 1981, Congress passed the Omnibus Budget Reconciliation Act of 1981, Public Law 97–35, revising the section 402 program. The Act directed the agencies to conduct a rulemaking process to determine those State and local highway safety programs most effective in reducing accidents, injuries, and fatalities.

On April 1, 1982, in accordance with section 1107(d) of the Omnibus Budget Reconciliation Act of 1981, NHTSA and FHWA issued a joint final rule (47 FR 15116) identifying the six program areas which the agencies then considered to be the most effective NHTSA and FHWA highway safety programs. Those program areas were determined to be National Priority program areas, and included one FHWA program area, Safety Construction and Operational Improvements, and the following NHTSA Program Areas: Occupant Protection; Alcohol Countermeasures; Police Traffic Services; Emergency Medical Services; and Traffic Records.

The April 1982 final rule provided that these National Priority program areas continue to be eligible for Federal funding under the 402 program, and established a mechanism by which additional programs identified by a State may be eligible for Federal funding.

The rule provided for an expedited procedure for the funding of National Priority program areas. See, 23 CFR 1205.4. For the funding of non-priority program areas, the rule requires States to provide additional justification for their funding decisions using one or both of the following two procedures: formal decision-making or problem identification. See, 23 CFR 1205.5 (a) and (b).

The formal decision-making approach is a method by which States can implement a formal decision-making process for highway safety plan development. The result of this decision-making process is the identification by the State of those program areas that represent priorities within the State. Once a State implements an approved process, the State thereafter can merely list and describe in its Highway Safety Plan those projects identified as the most effective in reducing accidents, injuries and fatalities in that State (through the State's approved process), certify that those projects were identified in accordance with the process, and supply the final decision-making results.

The problem identification approach consists of using the existing procedures for problem identification and countermeasure development, except that the agencies substantively review proposed projects outside of the National Priority program areas with a greater degree of scrutiny.

These non-priority program funding mechanisms permit States to support, under section 402, new and innovative programs in any highway safety area and to address problems which are unique to a particular State, provided sufficient justification has been submitted. They also provide an orderly method for assuring that major highway safety problems at the State and local level are being addressed with effective countermeasures. Since 1982, over $9 million in 402 funds have been obligated for projects under these non-priority program funding mechanisms.

On January 5, 1987, the Department submitted to Congress a legislative proposal to revise 23 U.S.C. 402. The Department's proposal provided for a periodic review of the effectiveness of the various programs eligible for funding under section 402 in reducing accidents, injuries and fatalities. The Department believed the periodic review procedure to be the best method for ensuring the continued relevance of the section 402 program to changing circumstances and traffic safety needs, and for ensuring that Federal funds continue to be used in as cost effective a manner as possible.

The legislative proposal also provided that the terms "standard" and "standards" wherever they appear be replaced with the words "guideline" and "guidelines." The purpose of this amendment was to conform the language of section 402 to the current implementation of the programs. As a result of the 1982 determinations of program effectiveness under section 402(j), the highway safety program standards have been maintained as non-binding guidelines for use by the States in their section 402 programs. The Department's proposal was enacted on April 2, 1987, as subsections 206 (a) and (d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, Public Law 100–17.

Pursuant to this authority, NHTSA and FHWA conducted a rulemaking action to determine those programs most effective in reducing accidents, injuries and deaths. In a final rule issued on April 1, 1988, the agencies determined that the National Priority program areas included one FHWA program area, Roadway Safety (formerly, Safety Construction and Operational

Improvements), and the following NHTSA program areas: (1) Alcohol and Other Drug Countermeasures; (2) Police Traffic Services; (3) Occupant Protection; (4) Traffic Records; (5) Emergency Medical Services; and (6) Motorcycle Safety. NHTSA and FHWA considered, but decided not to include, pedestrian and bicycle safety on the list of National Priority program areas. That decision was based on a finding that many of the countermeasures that had been proven to be effective in reducing pedestrian and bicycle safety problems could be funded under the existing priority programs. It was based also on a determination that, at the time, sufficient other proven countermeasures to address pedestrian and bicycle safety outside the priority programs had not been demonstrated to exist.

The Agencies' Proposal

In a NHTSA/FHWA joint NPRM, published in the **Federal Register** on May 3, 1991, the agencies stated that much activity has taken place in the area of pedestrian and bicycle safety since 1988 (when they had decided not to include the area on the list of National Priority areas) and described many activities in detail. The agencies also expressed the belief that the time has come to reevaluate their 1988 decision.

In the NPRM, the agencies proposed that Pedestrian and Bicycle Safety should be added to the list of "most effective," or National Priority program areas. The NPRM provided:

> NHTSA and FHWA have reviewed the available data within the Department regarding Pedestrian and Bicycle Safety to determine whether this program area should be considered to be one of the most effective in reducing accidents, injuries and fatalities. Based on this review, the agencies have tentatively determined that the area of Pedestrian and Bicycle Safety is of national concern, that effective countermeasures have been developed in this area which address this concern, and that State programs in this area appear to be among the most effective in reducing accidents, injuries and fatalities. The agencies seek public comments from interested parties on this tentative determination.

Comments Received

NHTSA and FHWA received a total of 39 written comments to the docket in response to the NPRM, including comments from fourteen States, communities in four States, two Universities and a number of national organizations, including: National Safety Council; National Association of Governor's Highway Safety Representatives; National Safe Kids Campaign (as well as Safe Kids Coalitions from three States); National School Transportation Association; Bicycle Federation of America; Advocates for Highway and Auto Safety; American Automobile Association; American Society of Civil Engineers; Indian Health Service and Bicycle Manufacturers Association of America.

The comments were nearly unanimous in their endorsement of the proposal set forth in the NPRM. The Illinois Department of Transportation (IDOT) stated that it was "not opposed to adding pedestrian and bicycle safety" to the list of National Priority program areas. Every other comment, without exception, either supported or strongly supported the agencies' proposal. Wisconsin's comments were representative:

> We believe that the magnitude of the problem, the existence of effective countermeasures, and the need for greater federal and state leadership are important reasons for focusing more attention and resources on both pedestrian and bicycle safety.

Problem of National Concern

The commenters agreed with the agencies that pedestrian and bicycle safety is an area of national concern. The National Safety Council estimated that 7200 of the 46,900 persons who died in motor vehicle crashes were pedestrians and that one thousand persons died in collisions between motor vehicles and bicycles. The National Association of Governor's Highway Safety Representatives (NAGHSR) cited data from the Insurance Institute for Highway Safety indicating that pedestrian fatalities account for 15–17% of all traffic fatalities and represent the second largest category of traffic deaths. Some of the States and local commenters estimated that the fatality rates within their jurisdictions are even higher (pedestrian deaths represent approximately 20% of all motor vehicle fatalities in Connecticut; pedestrian and bicyclist deaths represent over 20% of highway traffic fatalities in Maryland and pedestrians make up nearly 40% of those killed in traffic in Seattle).

NAGHSR stated that young persons and the elderly are over-represented in pedestrian fatalities. As more and more "baby boomers" have babies and as the elderly population increases, NAGHSR predicted, an increased number of pedestrian fatalities and injuries involving the young and the elderly can be anticipated. Other commenters predicted that pedestrian and bicycle safety problems could become even more significant as the popularity of walking, jogging and bicycling continues to grow. They indicated that recent and expected growth can be attributed to traffic congestion and environmental concerns and also to the pursuit of recreational activities and improved personal health.

The Indian Health Service (IHS), U.S. Department of Health and Human Services, indicated that injuries are a leading cause of death for Native Americans and that on many reservations pedestrian/motor vehicle crashes account for more than 20% of all severe injuries. With regard to bicyclist injuries, Wisconsin pointed out that the problem is more serious than the statistics would indicate. According to its comments, for example, a single hospital in Milwaukee estimated treating 3700 bicyclist injuries in 1988. During the same year, there were only 2100 bicyclist injuries reported (in police accident reports) in the entire State. Wisconsin asserted that under-reporting of bicyclist injuries is a national phenomenon.

Additional evidence of the seriousness of the problem is contained in the agencies' NPRM, 56 FR at 20390. NHTSA and FHWA have concluded, for the reasons described in the NPRM and based on our review of the comments (which uniformly agreed), that pedestrian and bicycle safety is an area of national concern.

Effective Countermeasures

In the NPRM, NHTSA and FHWA highlighted a number of countermeasures which the agencies believe have been particularly successful. The NPRM first described programs that are comprehensive in nature, such as the Corridor Program associated with Queens Boulevard in New York City, the Walk Alert Program which was developed by the National Safety Council and a comprehensive pedestrian and bicycle safety program conducted in the City of Seattle.

The NPRM then discussed individual enforcement, education and engineering countermeasures designed to address particular local problems. Examples of effective enforcement activities included the development of model ordinances designed to reduce the incidence of certain types of common pedestrian traffic crashes coupled with aggressive enforcement activities and laws requiring the mandatory use of bicycle helmets. The NPRM cited the Willy Whistle program, a pedestrian safety film entitled "And Keep on Looking," materials contained in the Walk Alert program and bicycle safety rodeos as effective education countermeasures.

The use of barriers, safety islands, facilities for the handicapped and older adults and exclusively timed pedestrian signals (during which traffic is stopped in all directions and pedestrians can cross) as well as improved lighting, traffic signs and pavement markings were cited as effective engineering countermeasures. Individuals who are interested in more information concerning these particular programs and countermeasures are encouraged to review the NPRM, 56 FR at 20390–91.

All commenters that addressed the issue agreed that effective countermeasures have been developed to reduce pedestrian and bicycle accidents, injuries and fatalities. Many of the commenters endorsed the programs mentioned in the NPRM and related their experiences and findings with regard to such programs. Other commenters highlighted programs that were not discussed in the NPRM, but which they believe have demonstrated their effectiveness.

1. Comprehensive Programs

The National Safety Council (NSC) believes, based on the experience of the twelve States that they say have thus far implemented Walk Alert programs since 1989, that "the program can have a significant impact on reducing pedestrian fatalities," NSC also described "ALL ABOUT BIKES," a teaching curriculum it has developed aimed at children and premised on the concept that a bicycle is a vehicle, not a toy.

With regard to comprehensive programs in general, NAGHSR stated:

> Comprehensive, effective pedestrian and bicycle safety countermeasures already exist and have been implemented in several states. The programs consist of public information and educational programs, roadway engineering improvements, and selective enforcement programs. * * *
>
> Pennsylvania and New York City have pioneered comprehensive pedestrian safety efforts and their programs can serve as models for other states. Specifically, both jurisdictions have developed programs which include public awareness campaigns and educational materials for school-age children, engineering improvements * * * and publicized, selective police enforcement efforts. The highway safety coordinators in both jurisdictions have worked closely with their counterparts in engineering and law enforcement to review the pedestrian problem, target specific problem areas and types of problems, and identify and implement appropriate countermeasures. These comprehensive and coordinated efforts have significantly reduced pedestrian fatalities in both locations.

2. Enforcement

New York State agreed with the agencies that legislation can have a positive effect on pedestrian and bicycle safety. Its comments indicated that, in 1989, three new laws became effective in New York that address bicycle safety issues. The laws allow bicyclists to use their right arm to signal a right-hand turn, establish more stringent requirements for the reporting of serious bicycle accidents and require bicycle helmet use for children one to four years of age. A number of commenters, such as Advocates for Highway and Auto Safety (Advocates) agreed with the agencies' statement in the NPRM that, "(t)he use of bicycle helmets is the single most effective countermeasure in reducing head injuries and preventing serious head trauma."

The City of Seattle reported on its success in enforcing pedestrian laws. Seattle's comments indicated that, since Washington State changed its law to require that drivers stop to allow pedestrians to cross streets, Seattle traffic police have cited more than 5300 drivers for violating the law in the past nine months and approximately 2000 pedestrians have been cited for illegal behavior. Seattle stated that it believes these activities are having a positive effect on safety.

3. Education

AAA listed a number of educational programs it conducts, including School Safety Patrols, its annual "School's Open—Drive Carefully" public information and School Traffic Safety Poster programs and its annual AAA Pedestrian Protection and follow-up Appraisal Programs. AAA stated that, while it is difficult to evaluate the results of the programs with accuracy, it believes these programs have contributed to "a significant reduction in child pedestrian deaths (70 percent since 1935)." Other commenters reported having success using AAA, Walk Alert and other (often locally developed) pedestrian safety programs.

Commenters from different regions in the country reported that they are using similar bicycle education techniques and finding these measures to be effective. We received comments, for example, from the City of Allentown, Pennsylvania, Oklahoma Safe Kids Coalition, Nevada Safety Council and Safe Kids St. Louis. Each of these commenters noted their satisfaction with the use of activities, such as bicycle rodeos, bike derbies, presentations to children and/or their parents at schools or health fairs, the distribution of bicycle helmets for free or at discounted rates, poster contests and mass media efforts. Safe Kids St. Louis reported that, since it started actively promoting bicycle helmet use, during the past two years, the sale of helmets for school age children has increased dramatically in the St. Louis area. The Nevada Safety Council stated that, "(s)ince the beginning of the Pedestrian/Bicycle Program in 1988 there has been a significant decrease in accidents in these areas."

With regard to education efforts in general, Allentown, Pennsylvania observed, "(w)e are seeing the fruits of our previous efforts now with children demanding that their parents buckle their safety belts and we believe this same attitude will be evident with bike safety, bike helmet use and pedestrian safety." Allentown has found that the bicycle and pedestrian programs they have used have been well-received and that children are "most receptive" to these materials.

4. Engineering

Some of the commenters applauded the Department for including for the first time in the National Transportation Policy (NTP) issues relating to pedestrians and bicyclists. As the NPRM explained, the NTP calls on the Department to promote alternative modes of transportation, including bicycles and walking, to better accommodate pedestrian and bicycle needs in designing facilities in urban and suburban areas and to increase pedestrian safety.

Consistent with the goals set out in the NTP, New Jersey emphasized in its comments that it is important not only to take direct steps to improve pedestrian and bicycle safety, but it is also important to improve access. For this reason, New Jersey indicated that it has tended to concentrate its efforts on facilities improvements. The agencies wish to emphasize that section 402 funds cannot be used for construction projects. These funds can be used, however, for certain expenses that are associated with and that support construction projects, such as expenses for planning, data acquisition and analysis and traffic engineering studies. Illinois' comments recognized that the section 402 program can play a role in these efforts. The American Society of Civil Engineers stressed the importance of providing demonstrated results of pedestrian and bicycle programs to engineers and engineering educators if bicycling and walking are to be accommodated by our transportation facilities.

The Indian Health Service, Department of Health and Human Services, highlighted their success at using "pinmapping" and similar techniques that are used to identify high accident locations. The use of pinmapping on the Cherokee Indian Reservation in rural North Carolina resulted in the widening of problem roadway, and the installation of bike and footpaths and lighting. Severe injuries have declined since these improvements were completed. Similarly, the agency indicated that a significant night-time problem had been identified on a one-mile stretch of road on the White Mountain Apache Indian Reservation. This information led to the installation of lighting fixtures at strategic locations, which resulted in a dramatic decrease in pedestrian injuries.

Most Effective in Reducing Accidents, Injuries and Fatalities

NHTSA and FHWA stated in the NPRM that pedestrian and bicycle fatalities, which account for approximately 16 percent of all fatalities, represent a serious national problem and that the magnitude of the problem and the identification of effective countermeasures indicate this problem should be designated as a National Priority.

The agencies also asserted that there is a methodology for planning and designing a comprehensive program, and that there are particular programs that address individual components of the problem. We stated:

> Experience indicates that, to have the greatest potential for long-term change, communities should identify the nature and extent of the problem and then design a comprehensive program to solve that problem using specially selected education, enforcement and engineering components. We believe programs implemented in isolation are far less likely to succeed. An individual countermeasure, for example, while proven effective on its own, will be enhanced when combined with other efforts. Additionally, these programs can become institutionalized by incorporating them into local master transportation plans.
>
> * * * both comprehensive efforts and individual countermeasures * * * are already being implemented in States and communities. We believe these efforts and countermeasures have proved their effectiveness.

For these reasons, the agencies made a preliminary finding that the Pedestrian and Bicycle Safety program area is most effective in reducing accidents, injuries and fatalities and proposed adding Pedestrian and Bicycle Safety to the list of National Priority program areas.

The commenters completely agreed. Advocates found that the joint notice published by NHTSA and FHWA "makes a strong case for inclusion of pedestrian and bicycle safety as program areas that may be 'most effective' in reducing related fatalities and injuries." The state of West Virginia stated:

> The West Virginia Highway Safety Program supports the proposed expansion of the National Priority program to include Pedestrian and Bicycle Safety. Based on data and information currently available, traffic fatalities and accidents involving pedestrian and bicycle traffic are a national concern. I would agree with NHTSA and FHWA in their assessment of the magnitude of the problem and the identification of effective countermeasures, which indicate Pedestrian and Bicycle Safety should be a National Priority.

Other commenters offered similar reasons for making Pedestrian and Bicycle Safety a National Priority program. Maryland, for example, indicated that inclusion of this area on the list of National Priority programs would provide the area with the national attention which, in Maryland's opinion, it fully deserves. The Bicycle Federation of America (BFA) stated that the National Priority program approach that the Department has used to manage the section 402 program since 1982, "has been extremely successful in doing exactly what it was intended to do, namely concentrate the overwhelming majority of the section 402 dollars allocated by the State(s) to projects falling under one or another of the approved priority areas. * * * What is required is Federal government 'sanction' for the use of Section 402 funds to support programs to reduce pedestrian and bicyclists fatalities and injuries." This, asserts BFA, would "send a clear signal to State and local agencies that more attention should be focused on these two 'vulnerable modes' of transportation. This action," claims BFA, "would be consistent with recent Department policy statements, with recommendations coming from the National Academy of Sciences, and with findings from the FHWA's national symposium on 'Effective Highway Accident Countermeasures.' "

The commenters seemed to have just one reservation. Some sought assurance that States would not be required to spend their section 402 funds on pedestrian and bicycle activities (through earmarking or other means) if the area were to be added to the list of National Priority programs. NHTSA and FHWA wish to provide this assurance to the States. While the agencies cannot predict what actions Congress may take in the future, our purpose in adding Pedestrian and Bicycle Safety to the list of National Priority programs is to provide the States with additional flexibility. By adding this program to the list, the agencies are allowing States to allocate section 402 funds more easily to address pedestrian and bicycle safety problems if the States wish to do so. We have no intention of requiring the States to spend their section 402 funds in this area.

Comments Outside the Scope

The agencies received a few comments which addressed issues that are outside the scope of this rulemaking action.

The National School Transportation Association (NSTA) urged the agencies to include within pedestrian safety, a major emphasis on pupil transportation safety. NSTA stated that it believes, "pupil transportation safety should be specifically mentioned as an area within pedestrian safety which needs to be addressed."

There is certainly some overlap between the areas of pedestrian and bicycle safety and pupil transportation safety. As the agencies indicated in the NPRM, four of the countermeasures that the National Academy of Sciences recommended to improve school bus safety in its 1989 Special Report 222 addressed pedestrian safety issues. States will have the option, under the amended regulation, to spend a portion of their section 402 funds on these types of programs that address pedestrian and bicycle safety, and also improve pupil transportation safety. Where a State or community identifies this area as a serious problem, we would encourage the use of section 402 funds to address it. The regulation does not, however, identify the components of the National Priority program areas. This level of detail is generally contained in other materials, such as the agencies' Highway Safety Program Guidelines, 23 CFR part 1204 and NHTSA's Highway Safety Program Advisories. In December 1990, NHTSA published Highway Safety Program Advisories for all of its National Priority program areas, which then included Impaired Driving, Occupant Protection, Motorcycle Safety, Traffic Records, Policy Traffic Services and Emergency Medical Services. The agencies plan to publish a Highway Safety Program Advisory for Pedestrian and Bicycle Safety in 1992.

Two commenters, Wisconsin and Advocates, suggested additional ways the agencies can contribute to the improvement of Pedestrian and Bicycle Safety. As Advocates recognized themselves, these comments are also outside the scope of this rulemaking

action. In fact, they raise issues that are beyond the scope of the section 402 program altogether. The agencies will nonetheless responds to the commenters' concern.

NHTSA and FHWA are pleased to report that each of the issues raised by these commenters are in fact being addressed. For example, a pooled-fund study (supported with a pool of FHWA and State funds) is underway to evaluate the safety and operational effects of different bicycle facilities on all road users, which will lead to the development of guidelines for certain types of bicycle facilities. Research is also being conducted regarding the following issues: The operational and safety effects of medians and refuge islands on both pedestrians and vehicular traffic; the creation of pedestrian zones, in geographic areas with a high concentration of crashes involving elderly people, to enhance the safety and mobility of older adult pedestrians; and head, thorax and leg impact protection in relation to the design of motor vehicles. In addition, the agencies continue to support efforts to develop pedestrian education materials, particularly those which target the elderly population, youth and the alcohol problem.

Future research activities include a joint NHTSA study to update pedestrian and bicycle accident materials which classify the most commonly occurring "types" of accidents using available national accident databases and the identification of exposure rates for both pedestrians and bicyclists.

With regard to work zones, FHWA published a report of research findings and current practices in controlling and protection pedestrian traffic in work zones in July 1989. FHWA intends to revise Part VI of the Manual on Uniform Traffic Control Devices concerning construction, maintenance, and utility work zone activities, which will include a section that specifically addresses pedestrian safety issues. The revised Part VI will be published for public comment later this year in the **Federal Register.**

For further information on current activities being conducted by NHTSA and FHWA, individuals should review the NPRM published May 3, 1991 (56 FR 20387) or contact the agency officials identified earlier in this final rule.

Impact Analyses

A. Economic Impacts

The agencies have analyzed the effect of this action and determined that it is not "major" within the meaning of Executive Order 12291 or "significant" within the meaning of Department of Transportation regulatory policies and procedures. The rulemaking will not affect the level of funding available in the highway safety program, or otherwise have a significant economic impact, so that neither a Regulatory Impact Analysis nor a Regulatory Evaluation is required. Although not required to do so, the agencies prepared an Evaluation in 1982 to assist them in the rulemaking process. In the course of the agencies' 1987–88 rulemaking action, the Evaluation was reviewed and an Addendum was prepared. These documents are available for inspection through NHTSA's Docket Section, room 5109. Also in association with the 1982 rulemaking process, the agencies prepared and submitted to the public docket, Effectiveness and Efficiency Papers regarding the programs then being considered to be national priority program areas. These documents are also available in the public docket, room 5109, Docket Number 81–12, General Reference Section.

B. Impacts on Small Entities

In compliance with the Regulatory Flexibility Act, the agencies have evaluated the effects of this action on small entities. Based on the evaluation, we certify that this action will not have a significant economic impact on a substantial number of small entities. States will be recipients of any funds awarded under the regulation and, accordingly, the preparation of a Regulatory Flexibility Analysis is unnecessary.

C. Environmental Impacts

The agencies have also analyzed this action for the purpose of the National Environmental Policy Act. The agencies have determined that this action will not have any effect on the human environment.

D. Federalism Assessment

The agency has analyzed this action under the principles and criteria of Executive Order 12612 and has determined that the rule will not have any federalism implications. The agencies' decision to add Pedestrian and Bicycle Safety to the list of National Priority program areas will not require that States spend their section 402 funds on that program. Rather, the change will provide increased flexibility by enabling States to support the area of Pedestrian and Bicycle Safety more easily if they wish to do so.

E. Paperwork Reduction Act

The requirement relating to this action, that each State must submit a highway safety plan to receive section 402 grant funds, is considered to be an information collection requirement, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. This requirement has already been approved by OMB, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). It has been approved through April 30, 1992; OMB 2127–0003. This final rule will establish no new information collection requirement, as that term is defined by the OMB in 5 CFR Part 1320.

List of Subjects in 23 CFR Part 1205

Grant programs, Highway safety.

In accordance with the foregoing, NHTSA and FHWA amend part 1205 of title 23 of the Code of Federal Regulations, as set forth below.

PART 1205—[AMENDED]

1. The authority citation for part 1205 continues to read as follows:

Authority: 23 U.S.C. 402; delegations of authority at 49 CFR 1.48 and 1.50.

2. In § 1205.3, paragraph (c) is added to read as follows:

§ 1205.3 Identification of National Priority Program Areas.

* * * * *

(c) Under statutory provisions jointly administered by NHTSA and FHWA, the following highway safety program area, jointly administered by NHTSA and FHWA, has been identified as encompassing a major highway safety problem which is of national concern, and for which effective countermeasures have been identified. The program developed in this area is eligible for Federal funding, pursuant to provisions of 23 U.S.C. 402(g), guidelines issued by NHTSA and FHWA and the review procedures set forth in § 1205.4: Pedestrian and Bicycle Safety.

Issued on October 1, 1991.

Thomas D. Larson,

Administrator, Federal Highway Administration.

Jerry Ralph Curry,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 91–23976 Filed 10–3–91; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 541

Exemptions From Minimum Wage and Overtime Compensation Requirements of the Fair Labor Standards Act; Public Sector Employers

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Extension of comment period on interim final rule.

SUMMARY: This document extends the period for filing written comments an additional 30 days on revisions to regulations governing the exemption from the minimum wage and overtime compensation requirements of the Fair Labor Standards Act for executive, administrative and professional employees employed in the public sector. The Department of Labor is taking this action in order to afford interested parties additional time to submit comments.

DATES: Comments must be received on or before November 6, 1991.

ADDRESS: Submit written comments to Samuel D. Walker, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S–3502, 200 Constitution Avenue, NW., Washington, DC. 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card.

FOR FURTHER INFORMATION CONTACT: J. Dean Speer, Director, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S–3506, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 523–8412 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In the Federal Register of September 6, 1991 (56 FR 45824 through 45830), the Department of Labor published an interim final rule and a notice of proposed rulemaking concerning revisions to regulations governing the exemption from the minimum wage and overtime pay requirements of the Fair Labor Standards Act (FLSA) for executive, administrative and professional employees employed in the public sector, as follows: (1) An interim final rule (56 FR 45824) that became effective upon publication, which also requested comments, for a special exception from a certain aspect of the "salary basis" test for public sector pay systems that deduct pay from otherwise-exempt public employees for absences of less than a day for personal reasons or illness when some form of paid leave is not used, and for furloughs; and (2) a notice of proposed rulemaking (56 FR 45828) to allow governmental entities to restore the exempt status of their employees under such pay systems if either (A) no *actual* deductions were made for absences of less than a day occurring before the September 6, 1991, effective date of the interim rule, or (B) deductions that were made for absences of less than a day occurring before September 6, 1991, are reimbursed. The Department requested that written comments from interested parties be submitted on the interim rule and the notice of proposed rulemaking on or before October 7, 1991.

Because of the interest that has been expressed in this rulemaking, the Department has decided to extend the public comment period. Therefore, the period for submitting public comments concerning the interim Final rule is extended for 30 additional days, to November 6, 1991. For a document extending the comment period on the proposed rule, see a document published in the Proposed Rules section of this issue.

Signed at Washington, DC, on this 2nd day of October 1991.

Samuel D. Walker,

Acting Administrator, Wage and Hour Division.

[FR Doc. 91–24075 Filed 10–3–91; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

West Virginia Regulatory Program; Definitions; Sediment Control Structures; Fills; Other Modifications and Corrections.

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval, with exceptions, of a proposed amendment to the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment contains modifications relating to definitions, sediment control structures, completion of reclamation, multiple-seam mining, excess spoil fills, underdrains and coal refuse disposal, and is intended to make the State's regulations consistent with current Federal requirements.

EFFECTIVE DATE: October 4, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Blankenship, Jr., Director, Charleston Field Office; Office of Surface Mining Reclamation and Enforcement; 603 Morris Street; Charleston, West Virginia 25301; telephone (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. Information concerning the general background of the West Virginia program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the initial conditions of the approval of the West Virginia program can be found in the January 21, 1981, **Federal Register** (46 FR 5915–5956). Subsequent actions concerning the conditions of approval and previous program amendments are codified at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of Amendment

On May 23, 1990, the Secretary of the Interior announced in the **Federal Register** (55 FR 21304–21340) his decision to approve, with certain exceptions, West Virginia's Surface Mining Reclamation Regulations (title 38, series 2) as submitted on April 26, 1989, and revised on December, 19, 1989, and February 7, 1990. A summary of the comments received on the State's revised regulations and the Secretary's disposition of those comments was published in the **Federal Register** on June 12, 1990 (55 FR 23703–23728).

As explained in the May 23, 1990, **Federal Register** notice, the Secretary found 36 areas in which West Virginia's revised regulations were less effective than the corresponding Federal requirements. Because seven of those provisions could cause immediate environmental and enforcement

problems, the Secretary required the State to submit amendments to those provisions by June 29, 1990. The remaining 29 required amendments were to be submitted by April 30, 1991. In addition, the Secretary did not approve 12 specific provisions in the State's revised regulations. Because of that action, none of the disapproved provisions are enforceable by the State.

On June 29, 1990 (Administrative Record No. WV 845), the West Virginia Division of Energy (WVDOE) submitted revisions to its Surface Mining Reclamation Regulations to satisfy seven of the 36 inconsistencies identified by the Secretary in the May 23, 1990, notice. The revisions pertain to the State's definitions of "downslope", "embankment", "impoundment" and "prospecting"; the design, construction, maintenance, abandonment, certification and inspection of bench control systems and completely incised sediment control structures; the removal of organic material from the critical foundation areas of excess spoil disposal fills; and the construction of diversion channels to divert runoff from areas adjacent to and above valley fills constructed with rock core chimney drains and durable rock fills.

The WVDOE also submitted modifications to its regulations relating to applicant violation information; the removal of abandoned coal refuse disposal piles; geologic information requirements; the transfer, assignment or sale of permit rights; incidental boundary revisions; permit findings and conditions; the final planting report; reclamation of bond forfeiture sites; applications for small operator assistance; and inspection frequencies. These modifications were made by the West Virginia Legislature subsequent to the WVDOE's February 7, 1990, program amendment submission that was partially approved by the Secretary on May 23, 1990.

In addition to the required amendments and the legislative modifications, the WVDOE revised its regulations to correct a number of clerical or editorial errors concerning the definition of bench control system, maps, the removal of abandoned coal refuse disposal piles, sediment control structures, blasting, liability insurance, prospecting, inactive status, durable rock fills, remining and coal refuse disposal. The WVDOE also submitted revised regulations concerning multiple-seam mining operations in steep slope areas and the construction of diversion channels across excess spoil disposal fills.

OSM announced receipt of the proposed amendment in the August 7, 1990 **Federal Register** (55 FR 32102–32103), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendments. The public comment period closed on September 6, 1990.

By letters dated October 11, 1990 and November 16, 1990 (Administrative Record Nos. WV 854 and 854A), OSM notified the State that certain proposed revisions contained in its June 29, 1990, submission were found to be less effective than the Federal requirements. At the State's request, OSM delayed final rulemaking on the June 29, 1990, submittal to allow West Virginia an opportunity to submit revised modifications (Administrative Record No. WV 853).

By letter dated December 17, 1990 (Administrative Record No. WV 857), West Virginia submitted revisions to its initial submittal of June 29, 1990. In addition, the State advised OSM that the proposed rules were being submitted to the West Virginia Legislature for approval as final rules, and, given the late date, promulgation of the proposed modifications as emergency regulations would likely result in confusion and could possibly complicate the legislative rulemaking process. The revised submittal contained modifications concerning the definition of "bench control systems", "downslope" and "prospecting"; the design, construction, certification, inspection and abandonment of sediment control structures and permanent impoundments; the completion of reclamation; the gravity transport of spoil on steep slope multiple-seam mining operations; the construction of diversion channels to divert runoff from areas above and adjacent to valley fills constructed with rock core chimney drains and durable rock fills; the construction of underdrains in durable rock fills; the construction and maintenance of coal refuse disposal sites; and the slope design requirements for coal refuse disposal sites.

OSM announced receipt of West Virginia's December 17, 1990 submission in the February 15, 1991 **Federal Register** (56 FR 6337–6339) and reopened the public comment period. The extended comment period closed on March 4, 1991.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.17, are the Director's findings concerning the proposed amendment that was initially submitted by the WVDOE on June 29, 1990, and subsequently revised on December 17, 1990. Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to correct earlier drafting errors and reflect organizational changes resulting from this amendment.

1. Section 38–2–2: Definitions

(a) *Bench Control Systems.* West Virginia has proposed to delete the definition of "bench control system" contained in subsection 2.14 since the term is being deleted throughout the State's regulations. In addition to deleting the definition, the State has clarified (Administrative Record No. WV 857) that the term "sediment control structure or other water retention device", which is used in subsections 5.4 and 5.5 of the State's regulations, includes bench control systems. Because the term "bench control system" is not defined or used in the Federal regulations, the Director finds that the deletion of the term from the State's regulations will not render them less effective than the Federal requirements.

(b) *Downslope.* The State has revised its definition of "downslope" at subsection 2.42 (formerly subsection 2.43) to mean "the land surface between the projected outcrop of the lowest coal seam being mined along each highwall, or any mining-related construction, and the valley floor." While the corresponding Federal definition lacks the provision concerning mining-related construction, the June 12, 1990, **Federal Register** notice states that, based on the preambles to the pertinent Federal rules, OSM did not intend its definition to be applied so as to prohibit the construction of haul roads or pond embankments on steep slopes below the outcrop of the lowest coal seam being mined, provided construction-related debris is not placed downslope (55 FR 23705, response to Comment No. 14). As discussed in the preamble to proposed 30 CFR 816.107 and 817.107, the prohibition on downslope placement applies to materials, not structures such as roads, ponds and approved excess spoil disposal fills (47 FR 26765, June 21, 1982). Therefore, to the extent that the term "mining-related construction" refers to structures such as those listed above, the proposed State definition is no less effective than the Federal rules. Similarly, to the extent that the proposed language is intended to prohibit the downslope placement of spoil removed by mining-related construction, it is not inconsistent with any Federal requirement. The WVDOE further clarified its definition of downslope by stating (Administrative

Record No. WV 857) that it would not allow indiscriminate placement of material on the downslope between the bench or cut and any mining-related construction. The Director is approving the revised definition to the extent that the clarification provided by the WVDOE prohibits the placement of any debris, abandoned or disabled equipment, spoil material, or waste mineral matter between the lowest coal seam being mined and any mining-related construction. Accordingly, the Director finds that the revised definition, as clarified by the State, resolves concerns raised by the Secretary in Finding 2.11 of the May 23, 1990 **Federal Register** notice (55 FR 21308), and therefore, subsection 2.42 of the proposed State regulations is no less effective than the Federal regulations at 30 CFR 701.5. Accordingly, the requirements of 30 CFR 948.16(d) are satisfied and the conditions which caused the Secretary not to approve the definition of downslope as set forth at 30 CFR 948.15(k)(1) are resolved.

(c) *Embankment.* The State has revised its definition of "embankment" at subsection 2.44 to mean "a man-made deposit of earth or waste materials usually exhibiting at least one sloping face." In this revision, the State has deleted the phrase which included only embankments five feet or greater in height in the definition. The Secretary, in Finding 2.12 (55 FR 21308, May 23, 1990), found the State's definition of "embankment" to be less effective than the corresponding Federal definition at 30 CFR 701.5 to the extent that it included the height limitation. Because the State has omitted the height limitation from its revised definition of embankment, the Director finds the revised State definition to be no less effective than its Federal counterpart. Accordingly, the requirements of 30 CFR 948.16(e) are satisfied and the conditions which caused the Secretary not to approve the definition of embankment as set forth at 30 CFR 948.15(k)(2) are resolved.

(d) *Impoundment or Impounding Structure.* The State has revised its definition of "impoundment or impounding structure" at subsection 2.66 to mean "a closed basin constructed for the retention of water, sediment, or waste." The Secretary, in Finding 2.15 (55 FR 21309, May 23, 1990), determined that the previous State definition was less effective than the corresponding Federal definition at 30 CFR 701.5 because it limited impoundments to those structures with embankments or barriers and thus did not include depressions or sedimentation control structures such as dugout ponds which are usually built at ground level without an embankment or barrier. By deleting the requirement for an embankment or barrier, the State has partially satisfied the requirements of 30 CFR 948.16(f). However, since the revised definition still limits impoundments to closed basins constructed for the retention of water, sediment or waste, the Director finds that it remains less effective than the Federal definition at 30 CFR 701.5, which includes all basins, either naturally formed or artificially built. Accordingly, the Director is requiring West Virginia to redefine "impoundment or impounding structure" in a manner which is no less effective than the Federal definition at 30 CFR 701.5.

(e) *Prospecting.* West Virginia has revised its definition of "prospecting" at subsection 2.94 to include the gathering of environmental data to establish the conditions of an area before beginning surface mining and reclamation operations, where such activity may cause any disturbance of the land surface or may cause any appreciable effect on land, air, water, or other environmental resources. In addition, the definition is being revised to provide that, regardless of whether or not any disturbance is anticipated, gathering of environmental data on lands designated unsuitable under section 22 of the West Virginia Surface Coal Mining and Reclamation Act (State Act) shall be considered prospecting and subject to the requirements of section 13 of the West Virginia Surface Mining Reclamation Regulations.

As required by 30 CFR 948.16(g), West Virginia has revised its definition of "prospecting" to include the gathering of environmental data to establish the conditions of an area prior to mining. It is thus similar to the corresponding Federal definition of "coal exploration" at 30 CFR 701.5. However, the State further qualifies this revision by specifying that it applies only to the gathering of data "where such activity may cause any disturbance of the land surface or may cause any appreciable effect on land, air, water, or other environmental resources * * *".

Section 512 of SMCRA requires the regulation of coal exploration operations that "substantially disturb" the natural land surface. The Federal rules at 30 CFR part 772 require that permits (and thus the prior approval of the regulatory authority) be obtained for all exploration operations intending to remove more than 250 tons of coal. All other exploration operations need only file a notice of intent, which does not require regulatory authority approval. The Federal performance standards at 30 CFR part 815 governing coal exploration apply only to operations causing substantial disturbance. It does not matter whether that disturbance occurs under a notice of intent or a permit.

Since the performance standards are thus limited in scope, OSM on September 8, 1983, amended 30 CFR 772.11 to delete the requirement that notices of intent be filed in situations where no substantial disturbance is planned. On July 15, 1985, the U.S. District Court for the District of Columbia remanded this rule to the Secretary because he had failed to adequately explain the departure from the previous rule and address concerns raised by commenters (*In re: Permanent Surface Mining Regulation Litigation (II)*, 620 F. Supp. 1519 (D.D.C. 1985)). In promulgating a revised rule on December 29, 1988, OSM noted that it had "considered the practical problems raised by the remanded rule, namely, that for the regulatory authority to determine which proposed coal exploration operations may substantially disturb the natural land surface, it must be informed of all proposed exploration" (53 FR 52943). Accordingly, the revised Federal rule requires that all parties intending to conduct coal exploration first notify the regulatory authority regardless of the extent of disturbance planned.

Although the proposed West Virginia definition is slightly less inclusive than the Federal definition, part of it adequately addresses the concerns of the commenters referenced in the court decision and is based on the same rationale as that used by OSM to develop its revised rules. As discussed above, the proposed definition includes all environmental data gathering activities which may cause any disturbance (not just substantial disturbance) of the natural land surface. When applied in the context of section 13 of the State rules, this part of the definition requires that the regulatory authority, not the operator, determine whether any planned disturbance is likely to be substantial and hence subject to regulation. However, the State also uses the phrase "* * * or may cause appreciable effect on land, air, water or other environmental resources" in defining prospecting. Because the term "appreciable" can mean substantial or considerable and the State has not clarified its use, it appears that, by allowing substantial effects to occur during the gathering of environmental data, the proposed State definition could be interpreted as

allowing the operator and not the regulatory authority to determine when prospecting activities are subject to regulation. By not requiring regulatory authority approval prior to commencement of such activities, the proposed State definition would be less effective than the Federal rule at 30 CFR 701.5.

The State's definition of prospecting, like 30 CFR 772.12(a), would require any person proposing to gather environmental data on lands designated unsuitable for surface mining to first submit an application and obtain approval from the Commissioner regardless of whether or not any disturbance is anticipated.

Since the State's revised definition would not provide for the regulation of prospecting in a manner which is consistent with the Federal rules at 30 CFR parts 772 and 815, the Director finds that while satisfying the specific requirements of 30 CFR 948.16(g), the State's definition of prospecting at subsection 2.94 remains less effective than the Federal definition at 30 CFR 701.5. Accordingly, the Director is not approving the State's definition to the extent that it includes the phrase "or may cause appreciable effect on land, * * *". He also is requiring that the State amend its definition to be no less effective than its Federal counterpart.

2. Section 38–2–3: Permitting

(a) *Compliance history.* The State, as required by 30 CFR 948.16(h), has revised subsection 3.1(k) of its regulations to require that an applicant for a permit list all "unabated," rather than "abated" air and water quality violation notices. The Director finds that revised subsection 3.1(k) is no less effective than the provisions of its Federal counterpart at 30 CFR 778.14(c) and satisfies the requirements of 30 CFR 948.16(h).

(b) *Existing structures.* The State proposes to revise subsection 3.4(d)(7) by deleting the phrase "owned or leased" in identifying existing structures to be used for surface mining operations. While there is no direct Federal counterpart, the Director finds that subsection 3.4(d)(7) as revised is not inconsistent with the general requirements regarding maps as set forth in the Federal regulations at 30 CFR 779.24, and existing structures as set forth at 30 CFR 780.12.

(c) *Reclamation schedule.* The State proposes to add subsection 3.6(1) which requires the permit applicant to include in the application a site-specific detailed plan showing the sequence and schedule of backfilling and regrading for area mining operations, mountaintop removal operations and multiple-seam mining operations. This provision is consistent with 30 CFR 780.18(b) which requires a reclamation plan and schedule for all proposed surface mining operations. When read together with the reclamation plan requirements of section 22A–3–10(a)(5) and (6) of the State Act, this provision renders the State program no less effective than the Federal rule.

(d) *Critical foundation areas for fills.* The State proposes to add subsection 3.7(b)(6) to require explicit identification, by narrative and by mapping, of critical foundation area(s) for excess spoil disposal structures. The new subsection further provides that selection of the critical foundation area(s) shall be based on the results of a geotechnical investigation, shall be certified as a part of the design by a registered professional engineer, and shall be subject to review and approval by the Commissioner. These provisions add specificity to, and do not conflict with, the Federal permitting requirements for excess spoil disposal at 30 CFR 780.35. Therefore, the Director finds that the proposed State rule is not inconsistent with 30 CFR 780.35.

(e) *Coal processing waste pile.* The State proposes to revise subsection 3.14(a)(3), which deals with the removal or reprocessing of the existing abandoned coal processing waste pile, by deleting the term "reprocessing". This deletion renders paragraph (a)(3) consistent with the general provisions of subsection 3.14 which allows the Commissioner to issue a special permit solely for the removal of existing abandoned coal processing waste piles. While there is no direct Federal counterpart, the Director finds that the deletion of the term "reprocessing" does not render subsection 3.14(a)(3) inconsistent with any requirement of the Federal regulations.

(f) *Reclamation plan.* The State proposes to revise subsection 3.14(b)(17) to require that the reclamation plan needed to remove an existing abandoned coal refuse pile comply with paragraphs (d), (e), (f), (h), (i) and (j) of subsection 3.6, instead of (b), (c), (d), (f), (g) and (h). With its February 7, 1990, submission, West Virginia revised its proposed reclamation plan requirements at subsection 3.6. However, the State failed to revise the references to subsection 3.6 contained in subsection 3.14(b)(17). The proposed revision is intended to correct this oversight. Therefore, although OSM has not promulgated specific regulations for the removal of abandoned coal refuse piles, the Director finds that the reclamation plan requirements at subsection 3.14(b)(17) are not inconsistent with the Federal requirements at 30 CFR 780.18 and 784.13.

(g) *Transfers, assignments and sales of permit rights.* The State proposes to revise subsections 3.25(a)(2) and 3.25(a)(4), concerning the transfer, assignment or sale of a permit, by making corrections to cross-references contained in those subsections. As discussed in Finding 3.23 of the May 23, 1990, **Federal Register** notice (55 FR 21315), and as required by 30 CFR 948.16(u), to be consistent with their Federal counterparts, subsection 3.25(a)(2) should cross-reference subsections 3.1(a), (b), (c), (d), (i), (j) and (k) rather than just 3.1(c); and subsection 3.25(a)(4) should cross-reference subsections 3.32 (c) and (d) rather than 3.32 (b) and (c). Since the State has made the required changes, the Director finds that revised subsections 3.25(a)(2) and 3.25(a)(4) are no less effective than their Federal counterparts at 30 CFR 774.17(b)(1) and 774.17(d)(1), respectively, and satisfy the requirements of 30 CFR 948.16(u).

(h) *Permit findings and conditions.* The State proposes to revise subsections 3.32(d)(12), 3.32(f) and 3.33(h)(2), concerning required findings for permit issuance and permit conditions, by making corrections to cross-references contained in those subsections. As discussed in Finding 3.30 of the May 23, 1990, **Federal Register** notice (55 FR 21317), to be consistent with their Federal counterparts, subsection 3.32(d)(12) should cross-reference subsection 14.16 rather than 14.15(i); subsection 3.32(f) should cross-reference subsection 3.32(c) rather than 3.32(b), and subsection 3.1(n) rather than 3.1(p); and subsection 3.33(h)(2) should cross-reference subsection 3.1(c) rather than 3.1(p). Since the State has made the required changes, the Director finds that revised subsections 3.32(d)(12), 3.32(f), and 3.33(h)(2) are no less effective than their Federal counterparts at 30 CFR 773.15(c)(12), 773.15(e), and 773.17(i), respectively, and satisfy the requirements of 30 CFR 948.16(y) and (z).

The State also proposes to revise subsection 3.33(h)(1) by deleting a cross-reference to subsection 3.1(d). Since subsection 3.33(h)(1) as revised is substantively identical to its Federal counterpart at 30 CFR 773.17(i)(1), the Director finds it no less effective than the Federal regulation.

3. Section 38–2–5: Drainage and Sediment Control Systems

(a) *Bench control systems.* As discussed previously herein in Finding 1(a), the State deleted the definition of

'bench control system" at subsection 2.14 of its regulations. State officials concluded that the definition was no longer applicable since the term was deleted throughout the regulations (Administrative Record No. WV 857). They also stated that sediment control structure or other water retention device which is used in subsections 5.4 and 5.5 includes bench control systems.

Although the definition of bench control system was deleted, West Virginia uses the terms "sediment control structures", "on-bench sediment control structures", "on-bench sediment control systems" and "water retention structures" interchangeably throughout its regulations.

Although the State has said that the term sediment control structure or other water retention device includes bench control system, the proposed regulations do not contain provisions which support this statement. The State's definition of sediment control structure at subsection 2.107 does not mention on-bench sediment control structures, on-bench sediment control system, or water retention structures. West Virginia should define sediment control structures or sediment pond to include on-bench sediment control structures, on-bench sediment control systems, and water retention structures or it should discontinue using those terms in its regulations. Furthermore, West Virginia must require that all such structures, including impoundments as defined in subsection 2.66, are subject to the requirements of subsections 5.4 and 5.5. Therefore, the Director finds that proposed subsection 5.4, as was discussed in Finding 5.3(d) of the May 23, 1990 **Federal Register** notice (55 FR 21319–21320), is still less effective than 30 CFR 816.46 and 817.46, to the extent that the terms "on-bench sediment control structure", "on-bench sediment control system", and "water retention structures" are not defined by the State, and the structures, including impoundments, are not specifically identified as being subject to the requirements of subsections 5.4 and 5.5. Accordingly, the requirements of 30 CFR 948.16(n), except for the portion dealing with annual inspection requirements and the portion pertaining to former subsection 5.4(g)(3)(D), have not been satisfied.

(b) *Design criteria.* The State proposes to revise subsection 5.4(a) to provide that all sedimentation control systems and other water retaining structures used in association with the mining operation shall be designed, constructed, located, maintained, and used in accordance with the State's regulations. This revision responds to the requirements of 30 CFR 948.16(k) and Finding 5.3(d) of the May 23, 1990, **Federal Register** notice (55 FR 21319). Since the revision clarifies that sediment control structures must always be designed, constructed, located, maintained and used in accordance with approved program requirements, and since the reference to "criteria set forth in the Technical Handbook or other approved criteria" has been eliminated, the Director finds that the proposal satisfies the requirements of 30 CFR 948.16(k), and resolves the concerns which caused the Secretary not to approve subsection 38–2–5.4(a), as set forth at 30 CFR 948.15(k)(6).

(c) *Storage capacity.* The State proposes to revise subsection 5.4(b)(4) to require that, before the Commissioner can approve a reduction in sediment control structure storage volume from the 0.125 acre-feet standard, the permit applicant must first demonstrate that the effluent limitations of subsection 14.5(b) will be met. This revision responds to the requirements of 30 CFR 948.16(m) and Finding 5.3(d) of the May 23, 1990, **Federal Register** notice (55 FR 21320). The Director finds that the revised provisions of subsection 5.4(b)(4) are no less effective than the Federal provisions at 30 CFR 816.46(c)(1)(iii)(C), 817.46(c)(1)(iii)(C), 816.46(d)(1) and 817.46(d)(1), and that the State's proposal satisfies the requirements of 30 CFR 948.16(m).

(d) *Spillways.* As required by OSM's 732 notification of March 6, 1990 (Administrative Record No. WV 834), the State proposes to revise subsection 5.4(b)(8) to provide that a single open channel spillway may be used only if it is of non-erodible construction and designed to carry sustained flows; or earth or grass-lined and designed to carry short-term, infrequent flows at non-erosive velocities where sustained flows are not expected. Since the proposed language is substantively identical to 30 CFR 816.46(c)(2), 817.46(c)(2), 816.49(a)(8) and (c)(2), and 817.49(a)(8) and (c)(2), the Director finds these provisions to be no less effective than their Federal counterparts. However, subsection 5.4(b)(8) also provides that excavated sediment control structures which are at ground level and which have an open exit channel constructed of non-erodible material may be designed to pass the peak discharge of a ten (10) year, twenty-four (24) hour precipitation event. The Federal regulations require that all sediment control structures not meeting the size or other criteria of 30 CFR 77.216(a) have spillways designed to safely pass the peak discharge of a 25-year, 24-hour precipitation event. In addition, as a result of revisions to 5.4(b), the punctuation at the end of each of the paragraphs 5.4(b)(8) through (b)(12) is inconsistent and could possibly lead to confusion in reading and applying the various subsections. The State needs to review and revise the punctuation in these paragraphs to make them consistent with other paragraphs in subsection 5.4(b). Therefore, the Director finds the State's rules at subsection 5.4(b)(8) to be less effective than the Federal requirements at 30 CFR 816.46(c)(2)(ii)(B) and 817.46(c)(2)(ii)(B), and he is requiring the State to amend its spillway design requirements for excavated sediment control structures.

(e) *Safety factors.* The State proposes to add subsection 5.4(b)(10) to establish the minimum static and seismic safety factors for impoundments. Since these factors are substantively identical to those in 30 CFR 816.49(a)(3) and 817.49(a)(3), the Director finds the proposal to be no less effective than these Federal regulations. In concert with this action, the State is proposing to delete the specific freeboard height requirements previously contained in subsection 5.4(b)(9)(B). Since the Federal regulations contain no counterpart to this State rule, the Director finds that its deletion does not render the State program less effective than Federal requirements.

(f) *Foundations.* The State proposes to add subsection 5.4(b)(12) to require that foundations and abutments for all sediment control structures be stable during all phases of construction and operation and be designed based on adequate and accurate information on the foundation conditions. However, the Federal rules at 30 CFR 816.49(a)(5)(i) and 817.49(a)(5)(i) also require that, for impoundments meeting the size or other criteria of 30 CFR 77.216(a), foundation investigations and any necessary laboratory testing of foundation materials shall be performed to determine the design requirements for foundation stability.

As provided by subsection 5.4(c)(6), by requiring all embankment-type sediment control structures that meet the size or other criteria of 30 CFR 77.216(a) to be designed, constructed, inspected, and abandoned in accordance with the MSHA requirements at 30 CFR 77.216, it was assumed that foundation investigations would be required for these structures. According to MSHA officials, foundation investigations are usually only required of moderate to high hazard impoundments (Administrative

Record No. WV 876). Furthermore, as discussed in the preamble to OSM's impoundment rules, although foundations are addressed in 30 CFR 77.216(a) (5) and (13), the MSHA rules only require that the plan describe the physical and engineering properties of the foundation and the computed minimum factor of safety range for slope stability (53 FR 43954, October 27, 1988) On the other hand, OSM's rules actually stipulate foundation investigation and laboratory testing requirements for impoundments meeting the requirements of 30 CFR 77.216(a) and they are intended to supplement the requirements of the MSHA rules.

Therefore, the Director finds the proposed State rule to be less effective than the corresponding Federal rules to the extent the proposal does not require foundation investigations and any necessary laboratory testing of foundation materials for impoundments meeting the size or other criteria of 30 CFR 77.216(a). Accordingly, the Director is requiring the State to amend its program to be no less effective than 30 CFR 816.49(a)(5)(i) and 817.49(a)(5)(i).

(g) *Design certification.* In response to 30 CFR 948.26(bb) and Finding 5.3(c) of the May 23, 1990, **Federal Register** notice (55 FR 21319), the State proposes to add subsection 5.4(b)(13) to require that, prior to construction of any sediment control structure, the general and detailed design plans for that structure be certified to be in accordance with all design requirements of the State Act, the State regulations, and other design criteria established by the Commissioner. The provisions of this proposal, when read together with the certification requirements of subsections 5.4(b)(1) and 5.4(d), the approved persons provisions of subsection 3.15, and the refuse disposal provisions of section 22, are substantively identical to the provisions of 30 CFR 780.25(a) (1)(i) and (3)(i), 784.16(a) (1)(i) and (3)(i), 816.49(a)(2) and 817.49(a)(2). Therefore, the Director finds that the proposal is no less effective than its Federal counterparts, and that it satisfies the requirements of 30 CFR 948.16(bb).

(h) *Applicability.* The State revised subsection 5.4(c) to clarify its applicability. As proposed, paragraph (c) of subsection 5.4 applies only to embankment type sediment control and water retention structures. Unlike the corresponding Federal rules at 30 CFR 816.49 and 817.49, the proposed State rules do not appear to also include slurry impoundments that may be constructed to facilitate surface coal mining and reclamation activities. To be no less effective than the Federal rules, West Virginia must apply the requirements of subsection 5.4(c) to all impoundments regardless of use or purpose. Therefore, the Director finds that subsection 5.4(c) is less effective than 30 CFR 816.49 and 817.49, and he is requiring the State to amend its program to make the requirements of subsection 5.4(c) applicable to slurry impoundments.

(i) *Embankment construction.* Paragraph (3) of subsection 5.4(c) provides that in constructing an embankment, the operator must remove all organic matter from the foundation, provide for proper compaction and ensure against excessive settlement. The Federal rules also require that, if necessary, cutoff trenches must be installed during embankment construction to ensure stability. Therefore, the Director finds that subsection 5.4(c)(3) is less effective than 30 CFR 816.49(a)(5)(ii) and 817.49(a)(5)(ii), and he is requiring the State to amend its regulations to provide for the installation of cutoff trenches when necessary.

(j) *Notification of potential hazards.* Subsection 5.4(c)(4) requires the operator to notify the WVDOE only if an inspection discloses that a potential hazard exists. The Federal regulations also require notification of potential hazards during the examination of impoundments. Therefore, the Director finds that subsection 5.4(c)(4) is less effective than 30 CFR 816.49(a)(12) and 817.49(a)(12), and he is requiring the State to amend its program to require prompt notification if any examination or inspection of an impoundment discloses that a hazard exists.

(k) *Additional State requirements.* The State proposes to add subsection 5.4(c)(5) to specify when a sediment control structure or water retention structure is subject to the provisions of the West Virginia Dam Control Act. Since these requirements are in addition to, rather than in place of, other State program provisions, the Director finds that the proposal is not inconsistent with SMCRA or the Federal regulations.

(l) *Safety factors for large or hazardous impoundments.* The State proposes to revise subsection 5.4(c)(6)(B) to include safety factors for large or hazardous impoundments consistent with those established in subsection 5.4(b)(10). There is no direct Federal counterpart to this rule, but since it improves the internal consistency of the State rules and specifies safety factors identical to those prescribed at 30 CFR 816.49(a)(3)(i) and 30 CFR 817.49(a)(3)(i) for impoundments meeting the criteria of 30 CFR 77.216(a), the Director finds that the proposal does not render the State program less effective than the Federal safety factor requirements for structures meeting the criteria of 30 CFR 77.216(a).

(m) *Construction certification.* Subsections 5.4(b)(1) and 5.4(d)(1) (formerly 5.4(c)(1)) of the proposed rules require that completed sediment control structures be certified as having been constructed either in accordance with the plans, designs, and specifications approved in the preplan (permit application) or in accordance with as-built plans. If as-built plans are submitted, the revised rule provides that the certification shall describe how and to what extent the construction deviates from the proposed design, and shall explain how and certify that the structure will meet performance standards. The added language is a significant improvement over the current rule, but the revised rule remains inconsistent with Federal requirements in two respects: (1) It does not require that all structures be certified as having been built in accordance with the detailed designs submitted and approved pursuant to subsection 3.6(h)(4) (Federal counterparts 30 CFR 780.25(a) and 784.16(a)); and (2) it does not require that as-built plans be reviewed and approved by the regulatory authority as permit revisions. Under 30 CFR 774.13, any change in an approved application must be processed as a permit revision. Therefore, the Director is requiring that West Virginia further amend subsections 5.4(b)(1) and (d)(1) to correct these deficiencies and to be no less effective than the corresponding Federal certification requirements at 30 CFR 816.46(b)(3) and 817.46(b)(3).

(n) *Inspections.* The State proposes to revise subsection 5.4(e) (formerly 5.4(d)(1)) to (1) eliminate the inspection exemption for non-embankment impoundments, (2) require that the entire impoundment, not just the embankment, be inspected and certified, and (3) provide that a licensed land surveyor may inspect and certify impoundments or sediment control structures which do not meet the size or other criteria of 30 CFR 77.216(a) or the West Virginia Dam Control Act, and which do not impound and are not constructed of coal processing waste or coal refuse. Since the proposal is substantively identical to the corresponding Federal regulations at 30 CFR 816.49(a)(10) and 817.49(a)(10), the Director finds it to be no less effective than these Federal regulations. He also finds that the proposal satisfies that portion of 30 CFR 948.16(n) which

requires the State to clarify that all incised sediment control structures and other impoundments are subject to annual inspection requirements, as discussed in Finding 5.3(d), 55 FR 21320, May 23, 1990.

In addition, the State proposes to revise subsection 5.4(e)(1) to require that the registered professional engineer or licensed land surveyor be experienced in the construction of sediment control structures. The Federal regulations at 30 CFR 816.49(a)(10) and 817.49(a)(10) require that persons inspecting such structures be experienced in the construction of "impoundments." In addition to having adequate training, the professionals inspecting these structures must also have sufficient experience in constructing them. Because sediment control structures are sometimes constructed without dams or embankments, experience in the construction of sediment control structures alone would not provide one with sufficient experience to fully comply with the Federal requirements. Therefore, the Director finds the State's proposal to be less effective than 30 CFR 816.49(a)(10) and 817.49(a)(10) to the extent that it requires experience in the construction of sediment control structures, and he is requiring the State to amend its rule to require that such professionals be experienced in the construction of impoundments.

In addition, the State proposes to revise subsection 5.4(e)(1)(A) to provide that the regular inspections required during impoundment construction shall not be made less frequently than quarterly. The corresponding Federal rules at 30 CFR 816.49(a)(10)(i) and 817.49(a)(10)(i) require regular inspections during construction, but they do not define "regular." Therefore, States may interpret this term in any manner which is both reasonable and consistent with the intent of the Federal requirement. In this case, the purpose of the Federal rules is to ensure that the certifying individual observes enough of the construction process to enable him or her to certify that the structure has been built in accordance with program requirements and plan specifications. Normally, this will require more than quarterly inspections, but, since the proposed State rule is minimum rather than a maximum frequency, the Director finds that it is not inconsistent with the Federal standard.

The State also proposes to revise subsection 5.4(e)(1)(B) to provide that the certified report required after each inspection can be prepared by a licensed land surveyor. Since sections 22A–3–9(a)(13) and 22A–3–12(b)(10) of the State Act authorize licensed land surveyors to inspect impoundments or sediment control structures that do not meet the size or other criteria of 30 CFR 77.216(a), and since the proposed language is substantively identical to 30 CFR 816.49(a)(10)(ii) and 817.49(a)(10)(ii) and is consistent with sections 507(b)(14) and 515(b)(10) of SMCRA, the Director finds that the proposal is no less effective than its Federal counterparts.

(o) *Examinations.* The State proposes to revise subsection 5.4(f) (formerly 5.4(e)) by adding a requirement that examination reports be retained for review at or near the operation. While the corresponding Federal rules concerning impoundment examinations at 30 CFR 816.49(a)(11) and 817.49(a)(11) do not make specific reference to where such reports shall be kept, they do cross-reference 30 CFR 77.216–3(c) which requires that the results of examinations be recorded in a book which shall be available at the minesite. Since the proposed language adds specificity to the State rule and does not conflict with any Federal requirement, the Director finds it is not inconsistent with SMCRA or the Federal regulations.

(p) *Permanent impoundments.* The State is proposing to move those portions of subsection 5.4(h) (formerly 5.4(g)) which concern permanent impoundments to subsection 5.5. As required by 30 CFR 948.16(n) and pursuant to Finding 5.3(d), 55 FR 21320, May 23, 1990, the State is revising these rules to ensure that the requirements of subsection 5.5 apply to all permanent impoundments, not just those with embankments. Therefore, the Director finds that the revised rule satisfies that portion of 30 CFR 948.16(n) which pertains to former subsection 5.4(g)(3)(D). Like the Federal rules at 30 CFR 816.49(b) and 817.49(b), the revised State rules require that all impoundments to be retained following final bond release meet certain standards, regardless of whether the impoundment has an embankment.

In addition, the State is proposing to prohibit the retention of any structure subject to either 30 CFR 77.216 or the West Virginia Dam Control Act. This provision is intended to protect downstream property and the safety of the public and to address MSHA concerns that current or future landowners are likely to be unable or unwilling to maintain such large and potentially hazardous structures. While there is no direct Federal counterpart, the Director finds the proposal is not less stringent than SMCRA, and does not conflict with any provisions of the Federal regulations.

The State also proposes changes to subsection 5.5(c) which would (1) delete the requirement that the landowner agree to inspect the structure periodically, and (2) modify the requirement that the landowner agree to assume liability for the structure to specify that liability need be assumed only to the extent provided by State law. The Federal regulations at 30 CFR 800.40(c)(2) provide that an impoundment can only be retained after mining so long as provisions for its sound future maintenance by the operator and the landowner have been made with the regulatory authority. Therefore, the Director finds the proposal to be less effective than the Federal rules to the extent it fails to provide that provisions for sound future maintenance of a permanent impoundment be made by the operator, if the landowner's liability is somehow limited under State law, and he is requiring the State to amend its program accordingly.

The State is also proposing to delete the requirement in subsection 5.5 that the Commissioner approve requests for retention of impoundments as part of the permit, based on a demonstration by the operator that all requirements and criteria for retention have been met. The corresponding Federal rules at 30 CFR 816.49(b) and 817.49(b) require that this demonstration be made prior to the approval of the request; they also require that all such requests be processed as part of the permit application or as an application for a permit revision. Therefore, the Director finds that deletion of this requirement from the State rules would cause the State program to be less effective than the Federal regulations. Accordingly, he is not approving the proposed deletion and is requiring the State to amend its program to require that the retention of permanent impoundments after mining be approved during the permitting process.

Finally, the State proposes to delete former subsection 5.5(g), which specified design precipitation event requirements for permanent impoundments. Since the corresponding Federal provision was deleted on October 27, 1988 (53 FR 43607), the Director finds that the proposed deletion will not render the State program inconsistent with 30 CFR 816.49(b) or 817.49(b) or any other Federal requirement.

(q) In Finding 5.3(b) of the May 23, 1990, **Federal Register** notice (55 FR 21319), the Secretary concluded that West Virginia regulations at 5.4(b)(9)(G)

(now 5.4(c)(6)) were no less effective than the Federal regulations at 30 CFR 780.25(f) and 784.16(f) in that the State regulations required that all structures meeting the size criteria of 30 CFR 77.216(a) "be designed, constructed, inspected and abandoned in accordance with the Federal regulations set forth in 30 CFR 77.216." The Federal regulations at 30 CFR 780.25(f) and 784.16(f) require that the detailed design plan for an impoundment which meets the size criteria of 30 CFR 77.216(a) include a stability analysis of the structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures, and long-term seepage conditions. The detailed design plan must also contain a description of each engineering design assumption and calculation.

After further review, the Director now believes that the referenced MSHA regulations at 30 CFR 77.216–2, while requiring the computation of a minimum safety factor for slope stability, do not specifically require that a stability analysis be performed and included in the design plan for the structure, along with engineering design assumptions and calculations. Therefore, the Director finds that the West Virginia regulations are less effective than the Federal regulations at 30 CFR 780.25(f) and 784.16(f). Furthermore, he is requiring the State to amend its program to provide that the detailed design plan for an impoundment which meets the size criteria of 30 CFR 77.216(a) include a stability analysis which shall include, but not be limited to, strength parameters, pore pressures, and long-term seepage conditions. In addition, the State must require that the design plan contain a description of each engineering design assumption and calculation.

4. Section 38–2–9: Revegetation

The State proposes to revise subsections 9.3(b) and 9.3(c) by deleting the last sentence in subsection (c) and adding that sentence to subsection (b). The sentence in question deals with the control and filing timeframe of planting reports where tree plantings are a part of the revegetation plan, and is more appropriately part of subsection (b) which specifically deals with the final planting report, rather than subsection (c) which deals with timing of inspections. Since this revision is made for the purpose of clarity and to correct an error in organization of these sections, the Director finds the proposed revisions are not inconsistent with the Federal regulations.

5. Section 38–2–11: Insurance and Bonding

The State proposes to revise subsection 11.1(a) to require that liability insurance for each surface mining and reclamation operation be maintained throughout the liability period necessary to complete all reclamation obligations. The proposal, submitted in response to Finding 11.2 of the May 23, 1990, **Federal Register** notice (55 FR 21323) and 30 CFR 948.16(ff), is substantively identical to the corresponding Federal provisions at 30 CFR 800.60(b). Therefore, the Director finds that the proposed State rule is no less effective than its Federal counterpart and satisfies the requirements of 30 CFR 948.16(ff).

6. Section 38–2–12: Replacement, Release and Forfeiture of Bonds

The State proposes to revise subsection 12.4(d)(2) to provide that where the proceeds of a bond forfeiture are less than the actual cost of reclamation, the Commissioner, if unable to collect from the permittee, shall in a timely manner, but not later than one hundred eighty days after forfeiture of the site specific bond utilize monies in the Special Reclamation Fund. This proposal, filed in response to Finding 12 of the May 23, 1990 **Federal Register** notice (55 FR 21324) and 30 CFR 948.16(p), clarifies that the Commissioner is obligated to use the Special Reclamation Fund monies to complete reclamation and, therefore, satisfies the requirements of 30 CFR 948.16(p) and resolves the concerns which caused the Secretary not to approve subsection 38–2–12.4(d)(2), as set forth at 30 CFR 948.15(k)(8).

However, the proposed rule does not specify that reclamation on bond forfeiture sites be completed in accordance with an approved reclamation plan, as specified in 30 CFR 800.11(e) and 800.50(b)(2). In response to a request for clarification from OSM (Administrative Record No. WV 854), the State indicated that subsection 12.4(d)(2) requires utilization of Special Reclamation Fund monies to accomplish completion of reclamation (Administrative Record No. WV 857). Further, the State cited subsection 2.35 which defines "completion of reclamation" to mean that all terms and conditions of the permit have been satisfied, the final inspection report has been approved by the Commissioner, all applicable effluent and applicable water quality standards are met and the total bond has been released. Although the State indicated that subsection 12.4(d)(2) requires the completion of reclamation on bond forfeiture sites and subsection 2.35 defines this phrase, the proposed regulations do not specify the standard that is to be used in completing the reclamation of bond forfeiture sites. Furthermore, the proposed requirements that are cited by the State are applicable only to permitted sites as opposed to sites for which the permits have been revoked. Because the proposed rule is open to misinterpretation and it does not specifically require the reclamation of bond forfeiture sites to be completed in accordance with the approved reclamation plans, the Director finds subsection 12.4(d)(2) to be less effective than the Federal requirements at 30 CFR 800.11(e) and 800.50(b)(2). Accordingly, the Director is not approving the proposed rule to the extent that it does not require bond forfeiture sites to be reclaimed in accordance with the approved reclamation plans and he is requiring the State to amend its program to require the same.

West Virginia is also revising this subsection to require that the Commissioner initiate reclamation within 180 days after forfeiture of the site-specific bond. Since SMCRA and the Federal regulations do not specify a time within which reclamation activities must be initiated on bond forfeiture sites, States may establish any timeframe that is in keeping with section 102(e) of SMCRA, which provides that one of the purposes of SMCRA is to ensure that reclamation occurs as contemporaneously with mining as possible, and the assumptions upon which the State's alternative bonding system was approved. When contracting constraints, procurement procedures and the time required to explore repermitting options are considered, the Director finds that the timeframe proposed by West Virginia meets this standard and is not inconsistent with any requirements of SMCRA or the Federal regulations.

7. Section 38–2–13: Requirements of a Notice of Intent to Prospect

The State proposes to revise subsection 13.2(d) to add a requirement that applications for prospecting permits include a map showing the location of critical habitats of threatened or endangered species. This proposal has been submitted in response to Finding 13.2 of the May 23, 1990, **Federal Register** notice (55 FR 21325) and 30 CFR 948.16(gg). Since the revised rule is substantively identical to the corresponding Federal provisions at 30 CFR 772.12(b)(12), the Director finds that it is no less effective than the cited

Federal rule, and that it satisfies the requirements of 30 CFR 948.16(gg).

8. Section 38–2–14: Performance Standards

(a) *Multiple-seam mining.* As discussed in its December 17, 1990, resubmission (Administrative Record No. WV 857), the State proposes to add a new subsection 14.8(a)(2) to address gravity transport of spoil between benches of multiple-seam mining operations in steep slopes areas. As a result, current paragraphs (a)(2), (a)(3), (a)(4) and (a)(5) are renumbered as (a)(3), (a)(4), (a)(5) and (a)(6), respectively. The proposed rule provides for spoil to be transported by gravity from a mining bench or benches to an approved backfill on a lower bench being mined, or to an approved excess spoil disposal area, provided the gravity transport occurs only where and as provided in the approved mining and reclamation plan and the approved plan required by subsection 3.6(1). The proposed rule further provides for the regulation of the gravity transport of excess spoil by requiring that:

(1) The plan include measures to minimize adverse environmental impacts and to ensure the safety of the public and mining personnel during gravity transport;

(2) If the transport is to an approved excess spoil disposal area downslope of mining operations, the plan is to provide for a waiver of outcrop barrier requirements of section 12(b)(25) of the State Act, and that the lowest coal seam to be mined is to become part of the approved fill area; or

(3) If the transport is to an approved backfill on a lower mining bench(es), the plan shall provide for either a natural or constructed outcrop barrier on the lowest bench, that the amount of spoil to be transported is limited to what can be safely retained on the lower bench(es), and except where and to the extent authorized by subsection 14.14(d)(7) (disposal of excess spoil on preexisting benches), each successive highwall will intersect the next upper bench, with no intervening natural outslope between successive benches;

(4) The plan is to describe the sequence of mining that will occur to ensure minimal disturbance of outslope areas during the operation;

(5) The plan shall also provide that all areas over or across which spoil is to be transported are to be properly prepared by:

—Clearing trees, brush and other vegetation;

—Removing and salvaging topsoil, unless an approved topsoil substitute is to be used and the topsoil will not affect the stability of the fill; and

—Removing topsoil, subsoils, and other unconsolidated material from the area across which spoil is to be transported, if the spoil is to be incorporated into a durable rock fill, so as to avoid contamination of the durable rock fill with excess fines;

(6) The plan is to provide that transported spoil will be incorporated into a properly designed and approved bench backfill or excess spoil disposal area. Further, no spoil other than that required for revegetation is to remain after mining is completed on areas between benches, or between the lowest bench and surface of a fill;

(7) The plan is to provide that the spoil will be handled or rehandled as necessary to ensure that any fill created meets the requirements of subsection 14.14 and/or 14.8(a)(5);

(8) The plan is to provide that, if the spoil is to be incorporated into a durable rock fill with an underdrain system formed by natural segregation of dumped materials, the transport and placement methods will insure that natural segregation occurs. Otherwise, such methods that do not ensure successful underdrain construction will not be used; and

(9) The plan is to provide that all areas disturbed during spoil handling will be reclaimed and revegetated pursuant to the State Act, the State's regulations, and the approved backfilling and grading plan at subsection 3.6(1).

As discussed in OSM's issue letter of November 16, 1990 (Administrative Record No. WV 854A), several provisions in the State's initial submission of June 29, 1990, regarding the gravity transport of spoil between active benches of multiple-seam mining operations were found to be inconsistent with the Federal requirements. In response to OSM's concerns, the State submitted revised multiple-seam mining requirements on December 17, 1990 (Administrative Record No. WV 857).

The most significant revision concerned the State's decision to only allow gravity transport between active benches when each successive highwall intersects the next upper bench and there is no natural intervening outslope between the benches. In addition, the State further revised its rules to clarify that when constructing underdrains in durable rock fills by natural segregation, spoil transportation or placement methods that do not ensure successful underdrain construction can not be utilized.

Since there are no corresponding Federal regulations on this subject, the proposed State rules are approvable if they are not inconsistent with the Federal requirements applicable to surface mining and reclamation operations in general. As discussed below, the proposed rules meet this test with certain exceptions.

Section 515(d)(1) of SMCRA requires the operator to "insure that, when performing surface coal mining on steep slopes, no debris, abandoned or disabled equipment, spoil material, or waste mineral matter be placed on the downslope below the bench or mining cut". It further provides a limited exemption from this provision for excess spoil placed in accordance with section 515(b)(22), the performance standards governing excess spoil disposal. At one time, OSM interpreted these statutory provisions as prohibiting the gravity transport of spoil between upper and lower benches separated by a natural slope (46 FR 37233, July 17, 1981, Discussion of Comment No. 10). This statement was made in the context of using excess spoil from a bench or benches on an active mining operation to backfill a lower previously mined bench unaffected by the active operation. In former 30 CFR 816.71(o) and 817.71(o), OSM only provided for the disposal of excess spoil from an actively mined bench to a lower preexisting bench by means of gravity transport when the highwall of the lower bench intersected or met the upper actively mined bench and no natural slope existed between them (46 FR 37232–37235). OSM later allowed the gravity transport of spoil between benches with natural intervening slopes when it promulgated revised excess spoil disposal rules at 30 CFR 816.75 and 817.75 on August 29, 1982 (47 FR 18553–18555). OSM subsequently revised these rules on July 19, 1983, when it promulgated current 30 CFR 816.74 and 817.74, which allow the gravity transport of excess spoil to preexisting benches to ensure the reclamation of abandoned mine lands (48 FR 32910–32929). As explained in the preamble to the Federal rules, OSM promulgated these requirements to encourage the use of excess spoil for the purpose of backfilling abandoned benches (46 FR 37283–37286, July 20, 1981). Given the many miles of abandoned benches that exist throughout the Appalachian coal region, OSM felt that the rules would help to ensure the reclamation of abandoned mine lands and protect the environment by reducing the quantity, both size and number, of valley fills to

be constructed in areas not disturbed by previous or active mining operations.

As mentioned, none of the proposed or final Federal rules concerning backfilling and grading or excess spoil disposal specifically address gravity transport of spoil between actively mined benches in multiple-seam mining operations, nor is this topic discussed in the preambles to these rules. Therefore, if he is to approve the State's proposed rules, the Director must determine that they are not inconsistent with existing Federal rules governing backfilling and grading and excess spoil disposal.

Under the proposed rule, the State will only allow the gravity transport of spoil to an approved backfill on a lower actively mined bench or benches when the highwall of the lower bench intersects the upper bench and no natural intervening slope exists between them. This provision is consistent with the Federal rules governing downslope placement of spoil in steep slope areas. Furthermore, the State is proposing to allow the gravity transport of spoil from an active bench to an approved excess spoil disposal area downslope of the mining operation, provided the lowest coal seam to be mined will become part of the approved fill area. The gravity transport of excess spoil from a mining bench or benches to an approved excess spoil disposal area is not considered by OSM to be downslope placement because the lowest coal seam to be mined will become part of the approved fill under the proposed rule. Therefore, the Director finds the proposed State rule to be no less effective than the Federal requirements at 30 CFR 816.74, 817.74, 816.107 and 817.107 except as discussed below.

Proposed subsection 14.8(a)(2)(C) provides that, when transporting spoil to an approved backfill on a lower mining bench or benches, the operator must provide either a natural or constructed outcrop barrier on the lowest bench and limit the amount of transported spoil to that which can be safely retained on the lower bench(es). Section 22A–3–12(b)(25) of the State Act allows for the use of constructed outcrop barriers to prevent slides and erosion, whereas section 515(b)(25) of SMCRA requires the retention of a natural barrier. As discussed in Finding 13.4 of the January 21, 1981, **Federal Register** notice (46 FR 5915–5956), the Secretary required the State to submit specific criteria for the design of constructed outcrop barriers that would assure protection of water quality and long term stability at least equal to that of natural barriers. In response to the Secretary, the State submitted criteria for the design of constructed outcrop barriers, and OSM approved the criteria on November 16, 1983 (48 FR 52034–52054). However, these requirements were accidentally deleted from the State's revised regulations in 1985. Because the proposed rule allows for the use of constructed outcrop barriers, the Director finds subsection 14.8(a)(2)(C) to be less stringent than section 515(b)(25) of SMCRA. The Director is not approving the State's proposal to the extent that it allows for the use of constructed outcrop barriers, and he is requiring the State to amend its program to specify design requirements for such barriers.

Subsection 14.8(a)(2)(F) of the proposed State regulations provides that, after completion of mining, no spoil other than that required for revegetation will be allowed to remain on the areas between benches or between the lowest bench and the surface of a fill. Since the State's rule was revised to prohibit gravity transport of spoil across natural intervening slopes between benches and the lowest coal seam to be mined is to become part of the approved fill, it appears that the proposed language is inconsistent with the other provisions of the proposed rule. Therefore, to ensure consistency, the Director is not approving subsection 14.8(a)(2)(F) and he is requiring the State to amend its rules to prohibit any placement of spoil on natural intervening slopes.

Subsection 14.8(a)(2)(G) provides that spoil will be handled or rehandled as necessary to ensure that any fill so created meets the requirements of subsection 14.8(a)(5) and/or subsection 14.14, as applicable. To be no less effective than the Federal rules, the State must revise its rule to require that all spoil transported for backfilling purposes be handled or rehandled as necessary to meet the requirements of subsection 14.15, and all spoil transported to an excess spoil disposal site be placed in accordance with all of the requirements at subsection 14.14. As mentioned, the proposed rule references the State's steep slope backfilling and grading requirements at subsection 14.8(a)(5). Not withstanding those provisions, the State must also require compliance with the general backfilling and grading requirements of subsection 14.15. Therefore, the Director finds subsection 14.8(a)(2)(G) to be less effective than 30 CFR 816.107 and 817.107, and he is requiring the State to revise its program to require that, except as specifically modified by subsection 14.8(a)(5), transported spoil used to backfill active mining benches must be handled or rehandled as necessary to ensure compliance with subsection 14.15.

(b) *Inactive status for coal preparation plants.* The State proposes to revise subsection 14.11(e) to provide that the 3-year limitation on inactive status for surface mines shall not apply to preparation plants or load-out facilities "whether or not," rather than "if," they are associated with a surface coal extraction permit. Since the corresponding Federal regulations at 30 CFR 816.131 and 817.131 place no limitations on the type of operation eligible for inactive status or on the length of time that an operation may remain in inactive status ("temporary cessation of operations" in the terminology of the Federal rules), the Director finds that the proposed revision is not inconsistent with the Federal regulations.

(c) *Diversion of surface runoff around fills.* The State proposes to revise subsections 14.14 (e)(4) and (g)(8) to provide that runoff from areas above and adjacent to a valley fill with a rock core chimney drain or a durable rock fill shall not be allowed to flow onto the fill surface, and shall be diverted into stabilized diversion channels designed and constructed to safely pass the peak runoff from a 100-year, 24-hour precipitation event. While the corresponding Federal rules at 30 CFR 816.72(a)(2), 817.72(a)(2), 816.73(f) and 817.73(f) require that diversion channels be designed to safely pass the runoff from a 100-year, 6-hour precipitation event, the Secretary previously determined that the State's use of the 24-hour design event rather than the 6-hour event for diversions and spillways is no less effective than the corresponding Federal requirements. See Finding 5.2, 55 FR 21318, May 23, 1990. The revised language satisfies the requirements of 30 CFR 948.26(r), and is substantively identical to the corresponding Federal diversion requirements at 30 CFR 816.72(a)(2), 817.72(a)(2), 816.72(b), 817.72(b), 816.73(f), and 817.73(f). Therefore, the Director finds the proposal to be no less effective than the cited Federal regulations with respect to diversion of surface runoff from areas above or adjacent to the fill.

(d) *Removal of organic matter from fill foundations.* The State proposes to revise subsection 14.14(e)(8) regarding valley fills, subsection 14.14(f)(5) regarding side hill fills, and subsection 14.14(g)(6) regarding durable rock fills, to provide that, in critical foundation areas, all organic matter both above and below the ground surface must be removed. Critical foundation areas, which shall be identified by a

geotechnical investigation as required by subsection 3.7(b)(6), must include, but are not limited to the toe of the fill, seepage or underdrain areas (the proposed rule uses the term "underlain areas", but the Director expects the State to correct this misspelling prior to promulgation), and downstream portions of the fill that provide a resisting force against massive slope failure. As discussed in 30 CFR 948.16(o) and Finding 14.14(c)(6) of the May 23, 1990 **Federal Register** notice (55 FR 21329), the Secretary required that this change be made for the State rules to be considered no less effective than the corresponding Federal regulations at 30 CFR 816.71(e)(1) and 817.71(e)(1), which require that all vegetative and organic materials be removed from the disposal area prior to the placement of spoil. For the reasons set forth in the finding referenced in the preceding sentence, the Director finds the proposed change is consistent with the cited Federal rules, satisfies the requirements of 30 CFR 948.16(o), and resolves the concerns which caused the Secretary not to approve paragraphs (e)(8), (f)(5) and (g)(6) of subsection 38–2–14.14, as set forth at 30 CFR 948.15(k)(10).

(e) *Durable rock.* The State proposes to revise subsection 14.14(g)(1)(B) to specify that, to be considered durable, material placed in durable rock fills must be rock that will not degrade to soil material. The revised rule is substantively identical to language contained in the corresponding Federal rules at 30 CFR 816.73(b) and 817.73(b). Therefore, the Director finds the revised State rule to be no less effective than these Federal regulations.

(f) *Underdrains in durable rock fills.* The State proposes to revise subsection 14.14(g)(7) to clarify that lateral underdrains, if needed, may be constructed by the natural segregation of dumped materials when feasible.

The rule further provides that underdrains shall be constructed in accordance with the underdrain requirements for all other valley fills, if the underdrain is not constructed by natural segregation of dumped material. Since the revised rule is substantively identical to the corresponding Federal rules at 30 CFR 816.73(e) and 817.73(e), the Director finds it to be no less effective than the cited Federal rules.

9. Section 38–2–16: Subsidence Control

In Finding 16.2 of the May 23, 1990, **Federal Register** notice (55 FR 21331), the Secretary found the West Virginia regulations at subsection 38–2–16.2(c)(2) to be less stringent than sections 102(b) and 516(b)(1) of SMCRA, and he did not approve that section to the extent that its requirements apply only "to the extent required under applicable provisions of State law." The Secretary took this action based upon a decision of the U.S. District Court for the District of Columbia in the matter of *National Wildlife Federation* v. *Lujan*, 733 F. Supp. 419 (D.DC 1990). The court remanded the Federal regulations at 30 CFR 817.121(c)(2) to the Secretary with instructions to revise it by striking the reference to State law. Since subsection 16.2(c)(2) of the State regulations contained the same provisions as the Federal rules remanded by the court, the Secretary found the State rules to be less effective that SMCRA. However, on March 22, 1991, the U.S. Court of Appeals for the District of Columbia Circuit reversed the decision of the U.S. District Court in *National Wildlife Federation* v. *Lujan*, 928 F2d 453 (DC Cir. 1991). This action by the U.S. Court of Appeals has restored to full force and effect, the Federal rule at 30 CFR 817.121(c)(2), and removed concerns regarding use of the phrase "to the extent required under applicable provisions of State law." Therefore, the concerns raised by the Secretary, as set forth at 30 CFR 948.15(k)(11), are resolved, and the State may revise its regulations accordingly.

10. Section 38–2–17: Small Operator Assistance Program

The State proposes to revise subsection 17.4(n) to require the application for small operator assistance to include a topographic map prepared in accordance with section 9 of the State Act, instead of section 7. The State submitted this revision in response to Finding 17 of the May 23, 1990, **Federal Register** notice (55 FR 21332). As explained in Finding 17, West Virginia amended subsection 17(n) in 1990 to require the identification of test borings and referenced section 7 with the intent of requiring the identification of underground workings. However, Section 7 pertains to prospecting and does not contain the necessary information. Since paragraph 13(G), subsection (a) of section 9 requires the identification of mine openings and the location and extent of known underground mine workings, the Director finds that revised subsection 17.4(n) is now no less effective than the Federal regulations at 30 CFR 795.7(e)(3), and that it satisfies the requirements at 30 CFR 948.16(11) which, as published at 55 FR 21339, erroneously cites State regulations subsection 38–2–17.3(b)(4) rather than 38–2–17.4(n).

11. Section 38–2–20: Inspection and Enforcement

The State proposes to revise subsection 20.1(a)(2), which establishes minimum inspection frequencies, by including a cross-reference to subsection 14.11 to clarify that, to be considered inactive for purposes of inspection frequency requirements, a site on which operations have temporarily ceased must have been approved for inactive status in accordance with subsection 14.11. Since this change merely eliminates an ambiguity and does not alter the meaning of subsection 20.1(a)(2) as approved in Finding 20.1 of the May 23, 1990, **Federal Register** notice (55 FR 21332–21333), the Director finds that the revised rule continues to comply with the requirements of 30 CFR 840.11(f).

12. Section 38–2–22: Coal Refuse

(a) *Safety factors.* The State proposes to revise subsection 22.3(i) by adding a requirement that permit applications for coal mining waste disposal structures include a description of how such structures have been designed to attain a minimum long-term safety factor of 1.5 and, if the structure could impound water, a seismic safety factor of 1.2. In response to a request from OSM (Administrative Record No. WV 854), the State provided clarification (Administrative Record No. WV 857) that the safety factors apply to the construction and maintenance of coal refuse disposal sites as well as the design of such sites. Further, the State will insert the phrase "constructed and maintained" after the word "designed" before final promulgation of the proposed rule. As clarified, the proposed safety factor standards are substantively identical to those contained in 30 CFR 816.49(a)(3)(i), 817.49(a)(3)(i), 816.81(c)(2) and 817.81 (c)(2). With the understanding that the State will make the agreed upon wording change before promulgation of the rule, the Director finds the proposal to be no less effective than its Federal counterparts. However, the Director feels that construction and maintainence requirements are more appropriately placed in the "performance standards" section of the regulations rather than the permit application requirements section. The Director expects West Virginia to make this change in its next rulemaking.

Furthermore, subsection 22.2 only requires that impounding and non-impounding coal refuse disposal facilities be designed to attain a long-term static safety factor of 1.5, whereas the Federal regulations require that

impounding coal refuse disposal facilities attain both a static safety factor of 1.5 and a seismic safety factor of 1.2. Therefore, the Director finds the design standards at subsection 22.2 to be less effective than the Federal requirements at 30 CFR 816.49(a)(3)(i) and 817.49(a)(3)(i). Accordingly, the Director is requiring the State to amend subsection 22.2 to require that impounding coal refuse disposal facilities attain a minimum static safety of 1.5 and a seismic safety factor of 1.2. In addition, while no less effective than the Federal requirements, the Director recommends that the State eliminate the inconsistencies in its coal refuse disposal design standards as set forth in subsections 22.2, 22.3(i) and 22.3(p) regarding safety factors.

(b) *Compaction requirements.* The State proposes to revise subsection 22.3(p) to provide that the Commissioner may approve construction of a coal refuse pile in compacted layers exceeding two feet in thickness and with slopes exceeding two horizontal to one vertical, where engineering data substantiates that both a minimum static safety factor of 1.5 and a minimum seismic safety factor of 1.2 will be attained. In addition, the revision requires each operator to submit plans for the Commissioner's approval, and provide documentation showing MSHA's prior approval pursuant to 30 CFR 77.215(h) for the alternate construction. No plans may be approved without such documentation.

As discussed in the September 26, 1983, **Federal Register** notice (48 FR 44006–44032), OSM revised its coal refuse disposal rules to allow qualified registered professional engineers to design coal refuse disposal sites for site specific conditions and reduce duplication and conflicts between OSM's rules and the requirements of the Mine Safety and Health Administration (MSHA). Because SMCRA has as its objective the protection of the health and safety of the public, whereas MSHA has a limited mandate of protecting the miner on the mine site, OSM's rules are intended to supplement the rules adopted by MSHA. The proposed State rule contains provisions that are nearly identical to the MSHA requirements at 30 CFR 77.215(h). The MSHA rules provide that the MSHA District manager may approve construction of a refuse pile in compacted layers exceeding two feet in thickness and with slopes exceeding 27 degrees where engineering data substantiates that a minimum safety factor of 1.5 for the refuse pile will be attained. Unlike the proposed State rule and 30 CFR 77.215(h), OSM's rules at 30 CFR 816.83(c)(2) and 817.83(c)(2) allow for the construction of terraces on the outslope of a coal refuse pile, provided that the grade of the outslope between terrace benches is not steeper than 2h:1v (50 percent). Under the existing requirements, the grade of the outslope of the coal refuse pile can not exceed 50 percent and the final configuration of the pile must be suitable for the approved postmining land use.

As stated in the preamble, when the coal refuse disposal regulations were proposed in 1982, no provision was included in them relating to the use of terraces. At the request of commenters, 30 CFR 816.83(c)(2) was later added to allow for the use of terraces (48 FR 44019, September 26, 1983). The reader is referred to the excess spoil disposal preamble for additional discussion on the use of terraces. OSM concludes in the preamble to the excess spoil regulations that the grade of the outslope between terrace benches can not exceed 2h:1v. OSM recognized that terraces are a standard soil conservation practice to control runoff flow of water and to reduce the soil loss caused by erosion. However, OSM also found it necessary to limit slopes to the flattest slope feasible. Since most engineers and revegetation experts agree that the maximum 2h:1v is usually the standard to ensure stability and revegetation success, and because the 2h:1v slope is more consistent than a steeper slope to ensure compliance with all environmental performance standards, OSM found it necessary to limit the grade of the outslope between terrace benches on excess spoil fills to 2h:1v (48 FR 32916, July 19, 1983). By referencing the excess spoil rules in the preamble to its coal refuse disposal regulations, OSM intended that this same standard apply to coal refuse disposal structures. It was OSM's intention in promulgating the existing coal refuse disposal rules to eliminate conflicts with MSHA's rules. However, OSM is charged by law to establish coal refuse disposal standards which must go beyond MSHA's in order to ensure the protection of the environment. To fulfill this objective, OSM found it necessary to limit the grade of the outslopes of coal refuse disposal piles to 50 percent.

Therefore, the Director finds subsection 22.3(p) to be less effective than 30 CFR 816.83(c)(2) and 817.83(c)(2). Accordingly, the Director is not approving the State's proposal to the extent that it allows the Commissioner to approve exceptions to the requirement that the grade of the outslope between terrace benches can not be steeper than 2h:1v (50 percent). Furthermore, he is requiring West Virginia to amend subsection 22.3(p) to be no less effective than its Federal counterpart.

(c) *Examination requirements.* The State is proposing to delete the sentence concerning examination requirements from subsection 22.7(a), which pertains to inspection frequencies for impounding structures. Since this sentence also appears in subsection 22.7(c), where it is more appropriately located, the Director finds that its deletion from subsection 22.7(a) does not render the State program less effective than the corresponding Federal requirements at 30 CFR 816.49(a)(11) and 817.49(a)(11) as referenced in 30 CFR 816.84(b)(1) and 817.84(b)(1).

IV. Summary and Disposition of Comments

Public Comments

The public comment period and opportunity to request a public hearing announced in the August 7, 1990 **Federal Register** (55 FR 32102) ended September 6, 1990. An extended comment period announced in the February 15, 1991 **Federal Register** (56 FR 6337) ended March 4, 1991. No public comments were received and the scheduled public hearing was not held as no one requested an opportunity to provide testimony.

Agency Comments

Pursuant to section 503(b) of SMCRA and the implementing regulations of 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the West Virginia program.

The U.S. Army Corps of Engineers and the U.S. Soil Conservation Service concurred without comment.

The Mine Safety and Health Administration (MSHA) concurred with the amendment and offered several editorial comments. In addition, MSHA stated that "it is very uncertain that any effective underdrain system can be constructed by the natural segregation of dumped material", as is provided for in West Virginia's proposed rules at 38–2–14.8(a)(2)(H) and 38–2–14.14(g)(7). The proposed rules are substantively identical to the provisions of the Federal regulations at 30 CFR 816.73(e). As explained in the preamble to that regulation at 48 FR 32921 (July 19, 1983),

"(A) new provision in final (30 CFR) 816.73(e) allows for the underdrain system to be constructed simultaneously with excess spoil placement by the natural segregation of dumped materials if the underdrain can carry the anticipated seepage of water due to

rainfall away from the excess spoil fill and from seeps and springs in the foundation of the disposal area, and meet all other requirements for drainage control. This provision is included to further clarify OSM's acceptance of this type of underdrain, which previously had been treated as an assumed, standard part of a rock fill and not in need of further explanation. Because of the certification requirements in (30 CFR) 816.71(h) and commenters' confusion, the use of a natural segregation rock underdrain in a durable rock fill is specifically provided for in this paragraph".

Therefore, the Director is approving the proposed rules as submitted by West Virginia since they are consistent with the provisions of the Federal regulations in this regard.

V. Director's Decision

Based on the above findings, the Director is approving, with certain exceptions, the proposed program amendment submitted by West Virginia on June 29, 1990, and as modified on December 17, 1990. The Federal regulations at 30 CFR part 948 codifying decisions concerning the West Virginia program are being amended to implement this decision. The Director is approving these proposed rules with the understanding that they be promulgated in a form identical to that submitted to OSM and reviewed by the public. Any differences between these rules and the State's final promulgated rules will be processed as a separate amendment subject to public review at a later date.

As discussed in the findings listed below, the Director is not approving the proposed provisions in the cited subsections of the West Virginia program which have been found to be less effective than their Federal counterparts, and he is requiring West Virginia to further amend its program to correct the identified deficiencies.

Finding No.	Code of state regulations
1(d)	38–2–2.66.
1(e)	38–2–2.94.
3(a)	38–2–5.4.
3(d)	38–2–5.4(b)(8).
3(f)	38–2–5.4(b)(12).
3(h)	38–2–5.4(c).
3(i)	38–2–5.4(c)(3).
3(j)	38–2–5.4(c)(4).
3(m)	38–2–5.4 (b)(1) and (d)(1).
3(n)	38–2–5.4(e)(1).
3(p)	38–2–5.5 and (c).
3(q)	38–2–5.4(c)(6).
6	38–2–12.4(d)(2).
8(a)	38–2–14.8(a)(2)(C), 38–2–14.8(a)(2)(F), 38–2–14.8(a)(2)(G).
12(a)	38–2–22.2.
12(b)	38–2–22.3(p).

Further, the Director finds that the State's submittal of June 29, 1990, as modified on December 17, 1990, resolves concerns raised by OSM in the May 23, 1990, **Federal Register** notice (55 FR 21337) regarding the definition of "downslope" (30 CFR 948.15(k)(1)), and "embankment" (30 CFR 948.15(k)(2)); use of criteria other than that set forth in the program for the design, construction and maintenance of siltation structures (30 CFR 948.15(k)(6)); discretionary use of the Special Reclamation Fund monies for the reclamation of bond forfeiture sites (30 CFR 948.15(k)(8)); and failure to require removal of subsurface organic matter from critical foundation areas of excess spoil disposal structures (30 CFR 948.15(k)(10)). In addition, as discussed in Finding 9 herein, 30 CFR 948.15(k)(11) has been resolved by the action, on March 22, 1991, of the U.S. Court of Appeals for the District of Columbia Circuit.

The Director is taking this opportunity to correct an error in the Federal regulations at 30 CFR 948.16(kk) and 948.16(11). These sections contain erroneous citations to the West Virginia Surface Mining Reclamation Regulations. The reference in 30 CFR 948.16(kk) to "subsection 38–2–17.4(n)" should read "subsection 38–2–17.3(b)(4)"; and the reference in 30 CFR 948.16(11) to "subsection 38–2–17.3(b)(4)" should read "subsection 38–2–17.4(n)." Based on the discussion in Finding 10 herein, 30 CFR 948.16(11) has been resolved. However, 30 CFR 948.16(kk) has not been resolved and is being revised to reflect the correct citation to the West Virginia regulations.

The final rule is being made effective immediately to expedite the State program amendment process and to encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Environmental Protection Agency (EPA) Concurrence

In accordance with 30 CFR 732.17(h)(11)(ii), OSM solicited EPA's concurrence in the approval of West Virginia's program. EPA concurred (Administrative Record No. WV 867) in the State's proposed amendments as they can be implemented consistent with applicable Clean Water Act (CWA) requirements. However, EPA expressed concern that certain situations related to instream treatment could result in conditions that would not assure compliance with applicable State water quality standards as required by the CWA. Specifically, West Virginia regulations at 38–2–5.4(b)(2) would provide that all sediment control structures be located as near as possible to the disturbed area and out of perennial streams, unless approved by the Commissioner. EPA's definition of waters of the United States at 40 CFR 122.2 includes perennial streams as well as intermittent and ephemeral streams. Additionally, EPA felt that the State's regulations regarding valley fills, side hill fills, and durable rock fills at 38–2–14.14(e), (f) and (g), respectively, could result in authorization of the placement of such structures in waters of the United States without requiring a section 402 or section 404 permit under the CWA, as well as the creation of instream waste treatment impoundments without requiring an NPDES permit. Despite these concerns, EPA interprets the State's regulations at 38–2–14.5(b) such that it requires that all discharges from and into all of these structures and into "waters of the United States" meet applicable water quality and effluent limitations.

The Director acknowledges these concerns, but notes that neither the cited West Virginia regulations nor their Federal counterparts at 30 CFR 816.46 and 30 CFR 816.49, can be construed as superseding, amending or repealing the Clean Water Act. Furthermore, the Director is only approving the cited West Virginia regulations with the understanding and on the basis that they do not supersede applicable CWA requirements.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In his oversight of the West Virginia program, the Director will recognize only the statutes, regulations and other materials approved by him, together with any consistent implementing policies, directives and other materials, and will require the enforcement by West Virginia of only such provisions.

VI. Procedural Determinations

National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA (30 U.S.C. 1292(d)), no environmental impact statement need be prepared on this rulemaking.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 20, 1991.

David Simpson,

Acting Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 948—WEST VIRGINIA

1. The authority citation for part 948 continues to read as follows:

Authority: 30 U.S.C. 1201 et seq.

2. In § 948.15, a new paragraph (l) is added to read as follows:

§ 948.15 Approval of Regulatory Program Amendments.

* * * * *

(l) The following amendments submitted to OSM on June 29, 1990, and modified and resubmitted on December 17, 1990, are approved as set forth in paragraph (l)(1) of this section effective October 4, 1991, with the exceptions identified in paragraph (l)(2) of this section.

(1) Revisions of the following rules of the West Virginia Surface Mining Reclamation Regulations:

38–2 Section 2	Definitions (with the exception noted in paragraph (l)(2) of this section).
38–2 Section 3	Permit Application. Requirements and Contents.
38–2 Section 5	Drainage and Sediment Control Systems (with the exception noted in paragraph (l)(2) of this section).
38–2 Section 6	Blasting.
38–2 Section 9	Revegetation.
38–2 Section 11	Insurance and Bonding.
38–2 Section 12	Replacement, Release, and Forfeiture of Bonds (with the exception noted in paragraph (l)(2) of this section).
38–2 Section 13	Requirements of a Notice of Intent to Prospect.
38–2 Section 14	Performance Standards (with the exceptions noted in paragraph (l)(2) of this section).
38–2 Section 17	Small Operator Assistance Program.
38–2 Section 20	Inspection and Enforcement.
38–2 Section 22	Coal Refuse (with the exception noted in paragraph (l)(2) of this section).

(2) The following rules of the West Virginia Surface Mining Reclamation Regulations are not being approved:

38–2–2.94	Definition of Prospecting—to the extent that the definition includes the phrase "or may cause appreciable effect on land".
38–2–5.5	Permanent Impoundments—to the extent that the State is deleting the requirement that a permanent impoundment of water may be created, if authorized by the Commissioner in the approved permit.
38–2–12.4(d)(2)	Bond Forfeiture—to the extent that the rule does not require bond forfeiture sites be reclaimed in accordance with the approved reclamation plan.
38–2–14.8(a)(2)(C)	Outcrop Barriers—to the extent the rules allow the use of constructed outcrop barriers but fail to specify design requirements.
38–2–14.8(a)(2)(F)	Spoil Placement—the entire subparagraph "F", which allows placement of spoil on natural intervening slopes.
38–2–22.3(p)	Compaction Requirements—to the extent the rule allows the Commissioner to approve slopes exceeding two (2) horizontal to one (1) vertical.

3. In § 948.16, paragraphs (d), (e), (g), (h), (k), (m), (o), (p), (r), (u), (y), (z), (bb), (ff), (gg) and (ll) are removed. In addition, Paragraphs (f), (n) and (kk) are revised, and paragraphs (nn), (oo), (pp), (qq), (rr), (ss), (tt), (uu), (vv), (ww), (xx), (yy), (zz), (aaa), (bbb) and (ccc) are added, to read as follows:

§ 948.16 Required Regulatory Program Amendments.

* * * * *

(f) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–2.66 of its surface mining reclamation regulations to define "impoundment or impounding structure" in a manner that includes water, sediment or slurry retention structures and depressions, either naturally formed or artificially built at ground level without embankments.

* * * * *

(n) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–5.4 of its surface mining reclamation regulations eliminating the terms "on-bench sediment control system", "on-bench sediment control structure", and "water retention structure", or shall modify the definition of sediment control structures at subsection 38–2–2.107 by including such terms in the definition, and shall specify that all such terms, including impoundments as defined in 38–2–2.66,

are subject to the requirements of 38–2–5.4 and 38–2–5.5.

* * * * *

(kk) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–17.3(b)(4) of its surface mining reclamation revelations to require that all coal produced by operations owned by persons who directly or indirectly control the applicant by reason of direction of the management be attributed to the applicant.

* * * * *

(nn) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–2.94 of its surface mining reclamation regulations to revise the definition of "prospecting" by either defining prospecting to include the gathering of environmental data or eliminating the reference to the gathering of environmental data which may cause "any appreciable effect on the land."

(oo) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–5.4(b)(8) of its surface mining reclamation regulations to require that excavated sediment control structures which are at ground level and which have an open exit channel constructed of non-erodible material be designed to pass the peak discharge of a 25-year, 24-hour precipitation event.

(pp) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–5.4(b)(12) of its surface mining reclamation regulations to require that foundation investigations, as well as any necessary laboratory testing of foundation material, shall be performed to determine the design requirements for foundation stability for impoundments meeting the size or other criteria of 30 CFR 77.216(a).

(qq) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–5.4(c) of its surface mining reclamation regulations in order to make the requirements of that subsection applicable to all impoundments, including slurry impoundments that may be constructed to facilitate surface coal mining and reclamation activities.

(rr) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–5.4(c)(3) of its surface mining reclamation regulations to require that, if necessary, cutoff trenches must be installed during embankment construction to ensure stability.

(ss) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–5.4(c)(4) of its surface mining reclamation regulations to require prompt notification of the State if any examination or inspection of an impoundment discloses that a hazard exists.

(tt) By June 1, 1992, West Virginia shall submit proposed revisions to subsections 38–2–5.4(b)(1) and 5.4(d)(1) to require that all structures be certified as having been built in accordance with the detailed designs submitted and approved pursuant to subsection 3.6(h)(4), and to require that as-built plans be reviewed and approved by the regulatory authority as permit revisions.

(uu) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–5.4(e)(1) of its surface mining reclamation regulations to require that the professional engineer, licensed land surveyor, or other specialist involved in the inspection of impoundments, be experienced in the construction of impoundments.

(vv) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–5.5 of its surface mining reclamation regulations to require that the retention of permanent impoundments after mining be approved during the permitting process. In addition, the State shall submit revisions to subsection 38–2–5.5(c) to provide that provisions for sound future maintenance of a permanent impoundment be made by the operator in those cases where the landowner's liability is somehow limited under State law.

(ww) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–12.4(d)(2) of its surface mining reclamation regulations to require that bond forfeiture sites be reclaimed in accordance with the approved reclamation plan.

(xx) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–14.8(a)(2)(C) of its surface mining reclamation regulations to specify design requirements for constructed outcrop barriers that will be the equivalent of natural barriers and will assure the safe transportation of excess spoil, the protection of water quality, and insure the long-term stability of the backfill.

(yy) By June 1, 1992, West Virginia shall submit proposed revisions of subsection 38–2–14.8(a)(2)(F) of its surface mining reclamation regulations to prohibit placement of spoil on natural intervening slopes.

(zz) By June 1, 1992, West Virginia shall submit proposed revisions of subsection 38–2–14.8(a)(2)(G) of its surface mining reclamation regulations to require that transported spoil used to backfill active mining benches must be handled or rehandled as necessary to ensure compliance with subsection 38–2–14.15, except as specifically modified by subsection 38–2–14.8(a)(5).

(aaa) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38–2–22.2 of its surface mining reclamation regulations to require that impounding coal refuse disposal facilities attain a minimum static safety factor of 1.5 and a seismic safety factor of 1.2.

(bbb) By June 1, 1992, West Virginia shall submit proposed revisions of subsection 38–2–22.3(p) of its surface mining reclamation regulations to provide that the grade of the outslope between terrace benches can not exceed 2h:1v.

(ccc) By June 1, 1992, West Virginia shall submit proposed revisions to its surface mining reclamation regulations to provide that the detailed design plans for an impoundment which meets the size criteria of 30 CFR 77.216(a) include a stability analysis which shall include, but not be limited to, strength parameters, pore pressures, and long-term seepage conditions. The State must also require that the design plan contain a description of each engineering design assumption and calculation.

[FR Doc. 91–23658 Filed 10–3–91; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 162

[DoD Instruction 5010.36]

Productivity Enhancing Capital Investment (PECI)

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This part, "Productivity Enhancing Capital Investment (PECI)," updates the 14 year old PECI Program that allows Department of Defense (DoD) Components to select Productivity Investment Fund projects in Fiscal Year 1994, authorizes development of a DoD PECI handbook, and revises 32 CFR part 162. This part explains to contractors how the "new" PECI program can be used by DoD Components to fund projects that improve productivity.

EFFECTIVE DATE: December 3, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. L. Wexel, (703) 756–2346.

SUPPLEMENTARY INFORMATION: On March 11, 1991 (56 FR 10219), the Department of Defense published a proposed rule. The Department of

Defense did not receive any formal comments from contractors on the proposed rule.

List of Subjects in 32 CFR Part 162

Armed forces; Government procurement

Accordingly, title 32, chapter I, subchapter E is amended to add part 162 as follows:

PART 162—PRODUCTIVITY ENHANCING CAPITAL INVESTMENT (PECI)

Sec.
162.1 Purpose.
162.2 Applicability and scope.
162.3 Definitions.
162.4 Policy.
162.5 Responsibilities.
162.6 Procedures.
162.7 Information requirements.

Appendix A to Part 162—Reporting Procedures.

Authority: 10 U.S.C. 136: E.O. 12367, 3 CFR, 1988 Comp., p. 566.

§ 162.1 Purpose.

This part:

(a) Updates policy, responsibilities, procedures, and guidance for the PECI process under DoD Directive 5010.31.[1]

(b) Authorizes the publication of DoD 5010.36 36–H– [2] "Productivity Enhancing Capital Investment (PECI) Handbook," consistent with DoD 5025.1–M.[3]

§ 162.2 Applicability and scope.

This part.

(a) Applies to the Office of the Secretary of Defense (OSD); the Military Departments; Chairman, Joint Chiefs of Staff and the Joint Staff; the Defense Agencies; and the DoD Field Activities (hereafter referred to collectively as the "DoD Components").

(b) Encompasses the acquisition of equipment and facilities to improve the following:

(1) Productivity, quality, and processes of DoD Components including major facilities, equipment, or process modernization.

(2) Performance of individual jobs, tasks, procedures, operations, and processes.

(c) Encompasses PIF investments at appropriated and industrially funded activities, if they are not participating in the Defense Business Operations Fund. For industrially funded activities, projects may be submitted for PIF on an exception basis; primarily, this includes facilities, multi-function projects, prototypes, demonstrations, and cross-service initiatives. Investments at Government-owned, contractor-operated (GOCO) facilities are limited to those for which the Department of Defense has responsibility to provide equipment or facilities and from which productivity benefits can be recovered within existing contractual provisions.

§ 162.3 Definition.

(a) *Capital Investment.* The acquisition, installation, transportation, and other costs needed to place equipment or facilities in operation meeting DoD capitalization requirements.

(b) *Economic Life.* The time period over which the benefits to be gained from a project may reasonably be expected to accrue to the Department of Defense.

(c) *Internal Rate of Return (IRR).* The discount rate that equates the present value of the future cash inflows, e.g. savings and cost avoidances, with the present value costs of an investment.

(d) *Life-Cycle Savings.* The estimated cumulative budgetary savings expected over the life of the project.

(e) *Net Present Value of Investment.* The difference between the present value benefit and the present value cost at a given discount rate.

(f) *Off-the-Shelf.* Equipment that is readily available through Government or commercial sources or that can be fabricated through combination or modification of existing equipment.

(g) *Pay-Back Period.* The number of years required for the cumulative savings to have the same value as the investment cost.

(h) *PECI Benefits.* Benefits resulting from PECIs are classified as savings or as cost avoidance:

(1) *Savings.* Benefits that can be precisely measured, quantified, and placed under management control at time of realization. Savings can be reflected as specific reductions in the approved program or budget, after they have been achieved. Examples include costs for manpower authorizations and or funded work-year reductions, reduced or eliminated operating costs (utilities, travel, and repair), and reduced or eliminated parts and contracts.

(2) *Cost-Avoidance.* Benefits from actions that obviate the requirements for an increase in future levels of manpower or costs that would be necessary, if present management practices were continued. The effect of cost-avoidance savings is the achievement of a higher level of readiness or increased value (quantity, quality or timeliness) of output at level staffing cost or the absorption of a growing work load at the same level of staffing or cost.

(i) *Post-Investment Assessment* (PIA). A PIA is conducted by DoD Components to establish accountability and provide information to improve future investment strategies.

(j) *Productivity.* The efficiency with which resources are used to provide a government service or product at specified levels of quality and timeliness.

(k) *Productivity Enhancement (or Productivity Improvement).* A decrease in the unit cost of products and services delivered with equal or better levels of quality and timeliness.

(l) *Productivity Enhancing Capital Investment* (PECI). Equipment or facility funding that shall improve Government service, products, quality, or timeliness. PECI projects are funded using PIF, PEIF, and CSI programs. These programs are defined as follows:

(1) *Productivity Investment Fund* (PIF). PIF projects cost over $100,000 and must amortize within 4 years from the date they become operational. In FY 1994 the threshold changes to $150,000.

(2) *Productivity Enhancing Incentive Fund* (PEIF). PEIF projects cost under $100,000 and are expected to amortize within 2 years of the date they become operational. In FY 1994 the limit changes to $150,000.

(3) *Component-Sponsored Investment* (CSI). CSI projects are fast pay-back or high interest investments that may have different DoD Component selection criteria than those specified for PIF or PEIF projects.

(m) *Quality.* The extent to which a product or service meets customer requirements and customer expectations.

§ 162.4 Policy.

It is DoD Policy that:

(a) The PECI program shall be an integral part of DoD Component investment planning and of the Defense Planning, Programming, and Budgeting System (PPBS) DoD Instruction 7045.7.[4] PECI planning shall include the productivity investment fund (PIF), the productivity enhancing incentive fund (PEIF), and component-sponsored investments (CSIs). The PECI program is a major DoD strategy to achieve productivity goals under E.O. 12637.[5]

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[2] Copies will be obtained, at cost, from the National Technical Information Service, 5235 Port Royal Road, Springfield, VA 22161.

[3] See footnote 1 to § 162.1(a).

[4] See footnote 1 to § 162.1(a).

[5] See footnote 1 to § 162.1(a).

(b) PECI projects shall be selected to improve quality and productivity, or to reduce unit cost of outputs in defense operations. PECI projects shall be evaluated and approved for funding based on recognized principles of economic analysis. Each PECI project shall be subject to all restrictions established by public law, DoD policy, and other regulatory constraints.

(c) DoD personnel at all levels shall be encouraged to seek out and identify opportunities for quality and productivity improvement. Those efforts shall be supported by using the PECI as a means of financing the improvements. The PECI Program shall provide incentives for participation, supported by the financial management system and policies.

(d) Individuals or groups who successfully identify PECI opportunities that result in significant savings or improvements in quality or productivity or who aggressively promote PECI incentives within their organizations should be recognized through the DoD Incentive Awards Program, DoD Instruction 5120.16,[6] the Secretary of Defense Productivity Excellence Awards Program, performance appraisal, or other appropriate means. All these savings derived through PECI will remain with the originating DoD Component. As an incentive a portion of these savings, when possible, should remain at the submitting activity.

(e) Funds provided through FY 1993 from the centrally managed OSD PIF may not be reprogrammed for non-PIF purposes without prior approval of the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)). The Heads of DoD Components shall monitor obligation rates to ensure PIF projects are executed quickly. If project funding cannot be obligated within the specified fiscal year(s) for the type of funding, the Head of the DoD Component must reprogram PIF funds to alternate approved PIF projects. The PIF projects shall be monitored to ensure timely implementation and to validate savings through the amortization period. The PECIs are subject to audit as established by DoD Instruction 7600.2 [7] (reference (g)) policy.

§ 162.5 Responsibilities.

(a) The Assistant Secretary of Defense (Force Management and Personnel (ASD (FM&P)) shall:

(1) Develop policies and guidance for the overall DoD PECI program.

(2) Maintain oversight of the PECI program to ensure implementation of this instruction. Through FY 1993 that oversight includes total process control and coordination of PIF actions to identify, select and approve, reprogram, and disapprove projects. Starting FY 1994 and ASD (FM&P) shall retain central oversight of the PECI program which is decentralized to the Components.

(3) Evaluate program results and training requirements and provide additional guidance, as necessary.

(4) Develop, maintain, and publish a DoD 5010.36–H consistent with DoD 5025.1–M [8]

(5) Coordinate PECI efforts with the Heads of the DoD Components on matters that affect their particular areas of responsibility.

(6) Use the Defense Productivity Program Office (DPPO) to:

(i) Provide technical guidance and support for PECI efforts.

(ii) Monitor and evaluate DoD Component PECI efforts.

(iii) Ensure compliance with DoD Directive 7750.5 [9]

(b) The Inspector General of the Department of Defense (IG, DoD) shall provide policy and guidance for the audit of the PECI and incorporate the requirement for audit into audit planning and program documents.

(c) The Heads of the DoD Components shall:

(1) Develop and sustain a formal PECI program that:

(i) Emphasizes and encourages the improvement of day-to-day operations through PECI funding.

(ii) Provides motivation and opportunities for personnel, at all levels, to participate in the identification, documentation, and implementation of PECI proposals.

(iii) Includes PIF, PEIF, and CSI efforts, as appropriate.

(iv) Reviews and approves submitted projects, broadens project applicability when reasonable, applies off-the-shelf technology, and integrates capital investment planning into the PPBS.

(2) Designate an official to be the central point of contact (POC) who shall oversee and monitor the PECI program.

(3) Establish procedures ensuring that the policies contained in § 162.4, above, are adhered to.

§ 162.6 Procedures.

The following procedures shall be followed by the DoD Components in the identification, documentation, selection, and financing of PECI projects:

(a) Document each PECI project to ensure that it is:

(1) A desirable action in accordance with the DoD Component's long-range planning and programing objectives, quality objectives, and customer and/or user satisfaction.

(2) Needed to perform and improve valid operations, functions, or services (as established by assigned missions and taskings) that cannot be performed as effectively or economically by other means, such as the use of existing facilities, methods, processes, or procedures.

(3) Justified on the basis of a valid economic analysis done in accordance with DoD Instruction 7041.3.

(4) Validated as to reasonableness, completeness, and correct appropriation.

(5) Classified properly as having savings or cost avoidance benefits

(b) Include resources for PECI in programming documents and budget submissions. The level of funding shall be established under quality and productivity plans and goals established by the Component.

(c) Use guidelines for project documentation, pre-investment analysis, financing, and post-investment accountability of PECI projects, when DoD 5010.36–H is published.

(d) Classify PECI projects for financing and aggregated reporting as follows:

(1) *PIF projects.* PIF projects are competitively selected from candidate proposals and financed through traditional budget appropriation processes from funds set aside for this purpose. PIF projects must cost over $100,000 and must amortize within 4 years from the date that they become operational. Both equipment and facilities investments that conform to public law, or DoD policies governing their qualification, may be included. Projects may include a function at several activities or locations and be Service-wide or Agency-wide. In FY 1994 the threshold will change to $150,000.

(2) *PEIF projects.* PEIF projects are financed from the DoD Component accounts established in annual appropriations and are expected to amortize within 2 years of the date they become operational. Funding for PEIF projects shall be included in the DoD Component annual appropriations as a single amount to cover projects, as they are proposed throughout the budget year. PEIF projects cannot exceed $100,000 or cost limitations established by the OSD (whichever is greater) and are limited to facility modification and

[6] See footnote 1 to § 162.1(a).

[7] See footnote 1 to § 162.1(a).

[8] See footnote 1 to § 162.1(a).

[9] See footnote 1 to § 162.1(a).

acquisition of "off-the shelf" equipment requiring little or no modification before use. In FY 1994 the limit changes to $150,000. Justification for those projects shall be based on the potential to improve quality and productivity that is realized through improvements in operating methods, quality, processes, or procedures.

(3) *CSI.* CSI projects are investments financed from the DoD Component accounts that may have longer amortization periods than the PEIF and may have different DoD Component cost or benefit criteria than those specified for PIF projects. The CSI projects shall be identified and included in the DoD Component's annual budget.

§ 162.7 Information requirements.

(a) DoD Components shall submit to the ASD (FM&P), by December 15th of each year, an annual status report on all PECI programs as outlined in appendix A to this part. The DoD Components shall maintain the data at a central point to support reporting requirements.

(b) The Summary Report, "PECI Program Status," is assigned Report Control Symbol FM&P (A) 1561, in accordance with DoD Directive 7750.5.

Appendix to Part 162—Reporting Procedures

A. General

The PECI reporting requirements provide the OSD with summary information required to provide program accountability, and satisfy the congressional concerns on program management. Information may be submitted in memorandum, letter, or other acceptable form.

B. Information Requirements

1. *PIF.* Each DoD Component that has a funded PIF project must annually report summary PIF information. The information required for each project follows:

a. *Project Identification.* Provide the 11-digit code for each project that has been approved for desired funding, such as follows:

(1) A92BAxxxxxx

(a) "A" is for an Army project.

(b) "92" is for a FY92 project.

(c) "BA" is an Approved PIF project.

(d) "xxxxxx" is a DoD Component identifier.

(2) DoD Component PECI points of contact should establish identifiers to ensure each project is unique.

b. *Total Funds Provided.* For each project provide the cumulative amount of PEIC funds invested in the project

c. *Total Amount Obligated.* For each project provide the cumulative amount of funds obligated against the project.

d. *Actual Savings.* For each project provide the cumulative actual savings generated.

e. *Projected Life-Cycle Savings.* For each PIF project provide the estimated amount of savings the project is projected to earn over the project's economic life.

f. *Projected Life-Cycle Cost Avoidance.* For each PIF project provide the estimated amount of cost avoidance the project is projected to achieve.

2. *PEIF.* Each DoD Component that has funded PEIF projects must annually report summary information that includes:

a. *Total Number of Projects.*

b. *Total Funds Provided.*

c. *Total Amount Obligated.*

d. *Total Projected Life-Cycle Savings.*

e. *Total Projected Life-Cycle Cost Avoidance.*

3. *CSI.* Each DoD Component that has funded CSI projects must annually report summary information that includes:

a. *Total Number of Projects.*

b. *Total Funds Provided.*

c. *Total Amount Obligated.*

d. *Total Projected Life-Cycle Savings.*

e. *Total Projected Life-Cycle Cost Avoidance.*

4. *PIA* Post-Investment assessments, articles, pictures, and brief description of projects and their results are encouraged and may be attached to the annual report or submitted throughout the year.

Dated: October 1, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–23961 Filed 10–3–91; 8:45 am]

BILLING CODE 3810–01–M

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32 CFR Part 199

[DoD 6010.8–R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Reimbursement of Individual Health Providers

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: The Department of Defense is publishing this document to correct errors in the final rule on reimbursement of individual health providers contained in § 199.14(g). In addition to typographical and proofreading errors, the final rule failed to specify that changes to 1991 payment levels apply to the lesser of prevailing charges or the fiscal year 1988 prevailing charge levels adjusted by the Medicare Economic Index. The Fiscal Year 1991 Defense Appropriations Act prohibited payments "in excess of amounts allowed in fiscal year 1990 for similar services." Such amounts are, by definition, the lesser of prevailing charges, MEI-limited 1988 prevailing charge levels, or actual charges.

EFFECTIVE DATE: October 7, 1991.

FOR FURTHER INFORMATION CONTACT: Steve Lillie, Office of the Assistant Secretary of Defense (Health Affairs), telephone (703) 695–3350.

SUPPLEMENTARY INFORMATION: An amendment to 32 CFR part 199 was published in the **Federal Register** on September 6, 1991 (56 FR 44001), revising § 199.14(g)(1).

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

2. Section 199.14 is amended in paragraph (g)(1)(v)(A) by changing "prevailing" to "appropriate" each time it appears; in paragraph (g)(1)(v)(B) by changing "prevailing" to "appropriate" each time it appears and by changing "[insert 30 days from date of publication]" to "October 7, 1991"; by adding a new paragraph (g)(1)(v)(C); in paragraph (g)(1)(vi)(A) by changing "maximunm" to "maximum" and "prevailing" to "allowable"; and in paragraph (g)(1)(vi)(B)(*2*) by changing "prevailing" to "appropriate" each time it appears.

§ 199.14 Provider reimbursement methods.

* * * * *

(g) * * *

(1) * * *

(v) * * *

(C) For purposes of this paragraph (g)(i)(v), "appropriate charge levels" in effect at any time prior to October 7, 1991 shall mean the lesser of:

(*1*) The prevailing charge levels then in effect, or

(*2*) The fiscal year 1988 prevailing charge levels adjusted by the Medicare Economic Index (MEI), as the MEI was applied beginning in the fiscal year 1989.

* * * * *

Dated: September 30, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–23876 Filed 10–3–91; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1 91-152]

Safety Zone Regulations: Kill Van Kull, NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the waters of Constable Hook Reach in the Kill Van Kull, New York and New Jersey. This zone will divide a portion of the channel at Constable Hook Reach into two sections, a northern half and a southern half. In the northern half, concentrated drilling and blasting will be conducted and no vessel is permitted to transit that section. In the southern half, vessel passage is permitted under the criteria set forth in this regulation. This action is necessary to protect the maritime community from the possible dangers and hazards to navigation associated with the extensive blasting and dredging operations which are being conducted in the northern half of this section of the channel.

EFFECTIVE DATE: This regulation becomes effective at 6 a.m., September 25, 1991.

FOR FURTHER INFORMATION CONTACT: MST1 S. Whinham of Captain of the Port, New York (212) 668-7934.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent loss or injury to the users of this portion of the Kill Van Kull.

A regulation is being developed which will impose a regulated navigation area (RNA) over the entire Kill Van Kull, which includes this area. This final rule is necessary, as an interim measure, to adequately ensure vessel safety in the affected area until the RNA is published and becomes effective. When the RNA becomes effective this safety zone will be cancelled.

Drafting Information

The drafters of this regulation are LTJG C. W. JENNINGS, project officer, Captain of the Port New York, and LT J.B. GATELY, project attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from the possible dangers and hazards to navigation associated with blasting and dredging operations. This regulation is effective at 6 a.m., September 25, 1991. On May 20, 1991 the Coast Guard issued a similar regulation for the drilling and blasting operations taking place in the Kill Van Kull at Bergen Point West Reach. That operation is ongoing and, therefore, that regulation remains in effect. Both of these safety zones will be cancelled when the rules for the regulated navigation area in the Kill Van Kull are published and become effective.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. A new § 165.170 is added to read as follows:

§ 165.170 Safety Zone: Constable Hook Reach, Kill Van Kull—New York and New Jersey.

(a) *Location.* The following area has been declared a Safety Zone: All waters of Constable Hook Reach, in the Kill Van Kull Channel, within an area described by a line connecting the following four points:

Latitude	Longitude
40°39'10.0"N	074°05'09.4"W
40°39'10.0"N	074°04'44.0"W
40°38'56.5"N	074°04'44.0"W
40°38'56.5"N	074°05'09.4"W

thence to the point of the beginning.

KVK Channel Temporary Light Buoy 4 has been established in approximate position 40°39'05'2"N 074°04'50.2"W, and KVK Channel Temporary Light Buoy 6 has been established in approximate position 40°39'05'3"N 074°05'06.9"W to indicate the eastern and western boundaries, respectively, of this area.

(b) *Effective date.* This regulation becomes effective at 6 a.m., September 25, 1991.

(c) *Regulations.* (1) Northern half of channel: No vessel may operate in the northern half of the channel within this zone. In accordance with the general regulations in Section 165.23 of this part, entry into or movement within this area of the safety zone is prohibited unless authorized by the Captain of the Port.

(2) Southern half of channel:

(i) Each vessel transiting the southern half of the channel in this zone is required to do so at minimum wake speed.

(ii) No vessel shall enter this zone when they are advised by the drilling barge or Vessel Traffic Service New York (VTSNY) that a misfire or hangfire has occurred. Vessels already underway in the zone shall proceed to clear the area immediately.

(iii) Vessels, 300 gross tons or greater and tugs with tows, are prohibited from meeting or overtaking in this portion of the channel.

(iv) Vessels, 300 gross tons or greater and tugs with tows, transiting with the prevailing current are regarded as the stand-on vessel.

(v) Prior to entering this safety zone, the master, pilot or operator of each vessel, 300 gross tons or greater and tugs with tows, shall notify VTSNY as to their decision regarding the employment of assist tugs while transiting the safety zone.

(vi) For vessels towing astern, hawser or wire length must not exceed 100 feet for that tow. This length is measured from the towing bit on the towing vessel to the point where the hawser or wire connects with the vessel being towed.

Dated: September 23, 1991.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 91-23949 Filed 10-3-91; 8:45 am]

BILLING CODE 4910-14-M

Maritime Administration

46 CFR Part 327

[Docket No. R-139]

RIN 2133-AA92

Seamen's Claims; Administrative Action and Litigation

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD) is revising its regulations at 46 CFR part 327 which establish the procedure for MARAD's administrative review of seamen's claims for compensation or damages due to death, illness, injury and other specified causes

arising out of employment on board a vessel owned or controlled by MARAD. The administrative review process encompasses the examination of factual information submitted to MARAD for the purpose of supporting a claim for recovery of compensation or damages under U.S. maritime law. These amendments are intended to facilitate and expedite the administrative review of such claims by clarifying the claims procedures and documentation that MARAD requires to be submitted with a claim. The need for these amendments to 46 CFR part 327 has been demonstrated by MARAD's experience in processing seamen's claims arising out of the recent national emergency designated Operations Desert Shield and Desert Storm.

DATES: The effective date of this rule is October 4, 1991.

FOR FURTHER INFORMATION CONTACT: Edmond J. Fitzgerald, Director, Office of Trade Analysis and Insurance, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590, tel. (202) 366–2400.

SUPPLEMENTARY INFORMATION: Operations Desert Shield and Desert Storm required the activation and operation of a large number of vessels owned by MARAD, many of which continue in operation. These vessels are manned by U.S. seamen who are subject to employment related illnesses or injuries, and the activations have resulted in a large increase in claims. The claimants have often not adequately described in the claim information submitted to MARAD the nature and circumstances of their claims for injuries or other losses, nor specified the amount of claimed losses by category. The deficiency in claims information submitted by claimants to MARAD has delayed the administrative review process significantly. Consequently, MARAD believes that it is necessary to amend its regulations to identify and clarify what documents and information shall be submitted by the claimants to allow MARAD to conduct a thorough administrative review.

Currently, section 4 of 46 CFR part 327 specifies the procedure for filing claims. In summary, section 4 now requires the claimant to submit only personal identifying and medical information and to describe the facts and circumstances leading up to and surrounding the event out of which the claim arose. This regulation is being amended to require the claimant to state a sum for lost employment that is documented by medical reports that specify the time that the claimant was unable to work, physicians' observations and medical evaluations, lost present and future earnings substantiated by historical information concerning employment and earnings as a seaman, medical expenses and compensatory damages. Other amendments to these regulations are of a conforming or clarifying nature.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

This rulemaking has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographic regions. Furthermore, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking does not involve any change in important Departmental policies, and it is considered nonsignificant under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). Because the economic impact should be minimal, further regulatory evaluation is not necessary.

The purpose of these amendments is to expedite MARAD's evaluation and disposition of a large volume of pending and anticipated seamen's claims arising from Operations Desert Shield and Desert Storm thus minimizing the likelihood of undue hardship to the claimants and their families. Accordingly, pursuant to provisions of sections 553(b) and 553(d) of the Administrative Procedure Act, MARAD has determined that good cause exists for finding that public notice and opportunity for comment would be contrary to the public interest and that the rule should become effective upon publication.

Federalism

MARAD has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612 and has determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

MARAD certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

MARAD has considered the environmental impact of this rulemaking and has concluded that there is no impact and that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This rulemaking contains reporting requirements that are being submitted to the Office of Management and Budget for its approval pursuant to provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 46 CFR Part 327

Administrative practice and procedure, claims, seamen.

Accordingly, 46 CFR part 327 is revised to read as follows:

PART 327—SEAMEN'S CLAIMS; ADMINISTRATIVE ACTION AND LITIGATION

Sec.

Authority: 46 app. U.S.C. sections: 1114(b). 1241a; 50 U.S.C. app. 1291(a).

§ 327.1 Purpose.

This part prescribes rules and regulations pertaining to the filing of claims designated in § 327.3 of this part and the administrative allowance, or disallowance (actual and presumed), of such claims, in whole or in part, filed by officers and members of crews (hereafter referred to as "seamen") employed on vessels as employees of the United States through the National Shipping Authority (NSA), Maritime Administration (MARAD), or successor.

§ 327.2 Statutory provisions.

(a) In connection with the Vessel Operations Revolving Fund created for the purpose of carrying out the vessel operating functions of the Secretary of Transportation, the Third Supplemental Appropriation Act, 1951 (46 app. U.S.C. 1241a), provides, in part:

That the provisions of sections 1(a), 1(c), 3(c) and 4 of Public Law 17, Seventy-eighth Congress (57 Stat. 45), as amended, shall be applicable in connection with such operations and to seamen employed through

general agents as employees of the United States, who may be employed in accordance with customary commercial practices in the maritime industry, notwithstanding the provisions of any law applicable in terms to the employment of persons by the United States.

(b) Section 1(a) of Public Law 17 (50 U.S.C. app. 1291(a)), as amended, provides that:

(a) Officers and members of crews (hereinafter referred to as "seamen") employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration shall, with respect to (1) laws administered by the Public Health Service and the Social Security Act, as amended by subsection (b)(2) and (3) of this section; (2) death, injuries, illness, maintenance and cure, loss of effects, detention, or repatriation, or claims arising therefrom not covered by the foregoing clause (1); and (3) collection of wages and bonuses and making of allotments, have all of the rights, benefits, exemptions, privileges, and liabilities, under law applicable to citizens of the United States employed as seamen on privately owned and operated American vessels. * * *. Claims arising under clause (1) hereof shall be enforced in the same manner as such claims would be enforced if the seamen were employed on a privately owned and operated American vessel. Any claim referred to in clause (2) or (3) hereof shall, if administratively disallowed in whole or in part, be enforced pursuant to the provisions of the Suits in Admiralty Act, notwithstanding the vessel on which the seaman is employed is not a merchant vessel within the meaning of such Act. * * *. When used in this subsection the term "administratively disallowed" means a denial of a written claim in accordance with rules or regulations prescribed by the Administrator, War Shipping Administration. When used in this subsection the terms "War Shipping Administration" and "Administrator, War Shipping Administration" shall be deemed to include the United States Maritime Commission with respect to the period beginning October 1 1941, and ending February 11, 1942, and the term "seaman" shall be deemed to include any seaman employed as an employee of the United States through the War Shipping Administration on vessels made available to or subchartered to other agencies or departments of the United States.

(c) The functions of the War Shipping Administrator and War Shipping Administration were transferred for liquidation purposes by title II of Public Law 492, 79th Congress (60 Stat. 501) to the United States Maritime Commission and, on August 20, 1949, by Reorganization Plan No. 6 of 1949 (63 Stat. 1069) to the Chairman of said Commission; certain of the functions of the United States Maritime Commission and of its Chairman were transferred on May 24, 1950, by part II of Reorganization Plan No. 21 of 1950 (64 Stat. 1273, 1276; 46 U.S.C. 1111–1114) to the Secretary of Commerce, and thereafter redelegated by the Secretary of Commerce to the Maritime Administrator (Department Order No. 117 (Amended), Manual of Orders, Department of Commerce); vessel operating functions were redelegated by the Maritime Administrator to the Director, National Shipping Authority, Maritime Administration (Administrator's Order No. 11 (Amended), Manual of Orders, Federal Maritime Board/Maritime Administration). In 1981, Public Law 99–31 (95 Stat. 165) transferred the Maritime Administration from the Department of Commerce to the Department of Transportation. By DOT Order 1100.60A, the Secretary of Transportation has delegated to the Maritime Administrator the authority to carry out the Act of June 2, 1951 (46 app. U.S.C. 1241a), regarding the Vessel Operations Revolving Fund (49 CFR 1.66). The Maritime Administrator has redelegated that authority to the Associate Administrator for Shipbuilding and Ship Operations (Maritime Administrative Order 70–1).

§ 327.3 Required claims submission.

All claims specified in 50 U.S.C. app. 1291(a) (2) and (3), quoted in § 327.2(b) of this part, shall be submitted for administrative consideration, as provided in §§ 327.4 and 327.5 of this part, prior to institution of court action thereon.

§ 327.4 Claim requirements.

(a) *Form.* The claim may be in any form and shall be

(1) In writing,

(2) Designated as a claim,

(3) Disclose that the object sought is the administrative allowance of the claim,

(4) Comply with the requirements of this part, and

(5) Filed as provided in § 327.5 of this part.

The claim need not be sworn or attested to by the claimant. However, the statements made in the claim are subject to the provision of 18 U.S.C. 287 and 1001 and all other penalty provisions for making false, fictitious, or fraudulent claims, statements or entries, or falsifying, concealing, or covering up a material fact in any matter within the jurisdiction of any department or agency of the United States. Any lawsuits filed contrary to the provisions of section 5 of the Suits in Admiralty Act, as amended by Public Law 877, 81st Congress (64 Stat. 1112; 46 app. U.S.C. 745), shall not be in compliance with the requirements of this part.

(b) *Contents.* Each claim shall include the following information:

(1) With respect to the seaman:

(i) Name;

(ii) Mailing address;

(iii) Date of birth;

(iv) Legal residence address;

(v) Place of birth; and

(vi) Merchant mariner license or document number and social security number.

(2) With respect to the basis for the claim:

(i) Name of vessel on which the seaman was serving when the incident occurred that is the basis for the claim;

(ii) Place where the incident occurred;

(iii) Time of incident—year, month and day, and the precise time of day, to the minute, where possible;

(iv) Narrative of the facts and circumstances surrounding the incident; and

(v) The names of others who can supply factual information about the incident and its consequences.

(3) The dollar amount of claim for:

(i) Past loss of earnings or earning capacity;

(ii) Future loss of earnings or earning capacity;

(iii) Medical expenses paid out of pocket;

(iv) Pain and suffering; and

(v) Any other loss arising out of the incident (describe).

(4) All medical and clinical records of physicians and hospitals related to a seaman's claim for injury, illness, or death shall be attached. If the claimant does not have a copy of each record, the claimant shall identify every physician and hospital having records relating to the seaman and shall provide written authorization for MARAD to obtain all such records. The claim shall also include the number of days the seaman worked as a merchant mariner and the earnings received for the current calendar year, as well as for the two preceding calendar years.

(5) If the claim does not involve a seaman's death, the following information shall be submitted with the claim:

(i) Date the seaman signed a reemployment register as a merchant mariner;

(ii) Copy of the medical fit-for-duty certificate issued to the seaman;

(iii) Date and details of next employment as a seaman; and

(iv) Date and details of next employment as other than a seaman.

(6) If the claim is for other than personal injury, illness or death, the claim shall provide all supporting

information concerning the nature and dollar amount of the loss.

§ 327.5. Filing claims.

(a) Claims may be filed by or on behalf of seamen or their surviving dependents or beneficiaries, or by their legal representatives. Claims shall be filed either by personal delivery or by registered mail.

(b) Each claim shall be filed with the Ship Manager or General Agent of the vessel with respect to which such claim arose. The claimant shall send a copy directly to the Chief, Division of Marine Insurance, Maritime Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

§ 327.6 Notice of allowance or disallowance.

MARAD shall give prompt notice in writing of the allowance or disallowance of each claim, in whole or in part, by mail to the last known address of, or by personal delivery to, the claimant or the claimant's legal representative. In the case of administrative disallowance, in whole or in part, such notice shall contain a brief statement of the reason for such disallowance.

§ 327.7 Administrative disallowance presumption.

If MARAD fails to give written notice of allowance or disallowance of a claim in accordance with § 327.6 of this part within sixty (60) calendar days following the date of the receipt of such claim by the proper person designated in § 327.5 of this part, such claim shall be presumed to have been "administratively disallowed," within the meaning in section 1(a) of 50 U.S.C. app. 1291(a), quoted in section 327.2(b) of this part.

§ 327.8 Court action.

No seamen, having a claim specified in subsections (2) and (3) of section 1(a) of 50 U.S.C. 1291(a), quoted in § 327.2(b) of this part, their surviving dependents and beneficiaries, or their legal representatives shall institute a court action for the enforcement of such claim unless such claim shall have been prepared and filed in accordance with §§ 327.4 and 327.5 of this part and shall have been administratively disallowed in accordance with § 327.6 or 327.7 of this part.

Dated: September 30, 1991.

By Order of Director, National Shipping Authority.

Joel C. Richard,

Acting Secretary, Maritime Administration.

[FR Doc. 91-23888 Filed 10-3-91; 8:45 am]

BILLING CODE 4910-81-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-174; RM-7055; RM-7115]

Radio Broadcasting Services; El Rio and Ojai, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 279A to El Rio, California, in response to a request filed by Susan M. Ciborosky. See 55 FR 12868, April 6, 1990. While the Notice of Proposed Rule Making had proposed the allotment of Channel 279A to either El Rio or to Ojai, California, El Rio was preferred because it had no local broadcast service and Ojai already has a first local service. The coordinates for the El Rio allotment are 34-14-33 and 119-12-17. Because El Rio is located within 320 kilometers (199 miles) of the Mexican border, concurrence of the Mexican government was obtained. With this action, the proceeding is terminated.

EFFECTIVE DATE: November 14, 1991. The window period for filing applications for Channel 279A at El Rio will open on November 15, 1991, and close on December 16, 1991.

FOR FURTHER INFORMATION CONTACT: Belford V. Lawson, III, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-174, adopted September 17, 1991, and released September 30, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC. 20036.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 279A, El Rio.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-23860 Filed 10-3-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-569; RM-7510, RM-7634, RM-7635]

Radio Broadcasting Services; Gluckstadt, Collins, Shubuta and Sumrall, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 269C3 for Channel 269A at Gluckstadt, Mississippi, and modifies the license for Station WLIN to specify operation on the higher class channel, in response to a petition filed by Exchequer Communications, Inc. See 55 FR 49097, November 26, 1990. The coordinates for Channel 269C3 are 32-25-36 and 90-12-19. To accommodate the upgrade at Gluckstadt, we shall substitute Channel 296A for Channel 269A, Collins, Mississippi, and modify the license for Station WKNZ accordingly. The coordinates for Channel 296A are 31-31-49 and 89-30-29. In response to a counterproposal filed by Sherry Lynne Wolverton, d/b/a Lamar County Broadcasting Company, we shall allot Channel 247A to Sumrall, Mississippi (RM-7635). The coordinates for Channel 247A at Sumrall are 31-22-29 and 89-32-48. There is a site restriction 4.5 kilometers (2.8 miles) south of the community. A counterproposal to allot Channel 296C3 to Shubuta, Mississippi, is dismissed RM-7634). With this action, this proceeding is terminated.

EFFECTIVE DATE: November 14, 1991. The window period for filing applications for Channel 247A, Sumrall, Mississippi, shall open on November 15, 1991 and close on December 16, 1991.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 90–569, adopted September 12, 1991, and released September 30, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452–1422.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Channel 269A and adding Channel 269C3 at Gluckstadt, by removing Channel 269A and adding Channel 296A at Collins, and by adding Channel 247A, Sumrall.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–23861 Filed 10–3–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 91–57; RM–7601]

Radio Broadcasting Services; New Iberia and Ville Platte, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of D.C. Jones, permittee of Station KKZN(FM), Channel 229C2, New Iberia, Louisiana, substitutes Channel 229C1 for Channel 229C2 at New Iberia, Louisiana, and modifies Station KKZN(FM)'s authorization to specify operation on the higher powered channel. To accommodate the upgrade at New Iberia, the Commission also substitutes Channel 223A for Channel 228A at Ville Platte, Louisiana, and modifies the license of Station KVPI (FM) to specify operation on the alternate Class A channel. See 56 FR 11981, March 21, 1991. Channel 229C1 and Channel 223A can be allotted to New Iberia and Ville Platte, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 229C1 has a site restriction of 45.3 kilometers (28.1 miles) northeast to accommodate D.C. Jones' desired site. Channel 223A can be allotted to Ville Platte at the licensed site of Station KVPI(FM). The coordinates Channel 229C1 are 30–20–00 and 91–32–00. The coordinates for Channel 223A are 30–41–39 and 92–18–46. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 14, 1991.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 654–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91–57, adopted September 12, 1991, and released September 30, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 229C2 and adding Channel 229C1 at New Iberia and by removing Channel 228A and adding Channel 223A at Ville Platte.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–23859 Filed 10–3–91; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 216 and 247

[Dock No. 910777–1177]

Taking and Importing of Marine Mammals; "Dolphin Safe" Tuna Labeling

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of effectiveness and enforcement of a collection-of-information requirement.

SUMMARY: NMFS announces approval by the Office of Management and Budget (OMB) of the collection-of-information requirement applicable to "dolphin-safe" tuna labeling and the importation of certain fish and fish products potentially harvested with methods injurious to marine mammals. This rule establishes an effective date for the collection-of-information requirement and informs the public of its enforcement.

EFFECTIVE DATE: Sections 216.24(e)(3) and 247.4 are effective November 1, 1991.

ADDRESSES: Copies of NOAA Form 370 (Fisheries Certificate of Origin) and instruction sheets for the form are available by contacting: E.C. Fullerton, Director, Southwest Region, NMFS, 300 South Ferry Street, room 2005, Terminal Island, CA 90731 (213/514–6196).

FOR FURTHER INFORMATION CONTACT: E.C. Fullerton, Director, Southwest Region, NMFS (213/514–6196 or FAX 213/514–6194).

SUPPLEMENTARY INFORMATION: An interim final rule implementing the Dolphin Protection Consumer Information Act (Act) was published on September 19, 1991 (56 FR 47418), amending 50 CFR part 216 and adding a new 50 CFR part 247. The interim final rule was effective on September 19, 1991, except for §§ 216.24(e)(3) and 247.4, both of which contain collection-of-information requirements subject to the Paperwork Reduction Act and which were not effective until approved by OMB. Those requirements have now been approved.

On November 1, 1991, the "Yellowfin Tuna Certificate of Origin" (Standard Form 370–1) will be modified to become a "Fisheries Certificate of Origin" (NOAA Form 370) (Certificate). The "Yellowfin Tuna Certificate of Origin" has been required for imports of most types of yellowfin tuna. That form, signed by the vessel captain, owner's representative, cannery representative,

or an official of the harvesting nation has been required to accompany each shipment of yellowfin tuna to the United States, and has allowed the U.S. Customs Service to identify and prohibit entry of yellowfin tuna and tuna products that are not in compliance with U.S. regulations. Beginning November 1, the revised form, "Fisheries Certificate of Origin," must accompany all imported shipments of: (1) Tuna subject to the provisions of 50 CFR 216.24(e) and (2) fish, other than tuna and salmon, subject to the provisions of 50 CFR 216.24(e), if harvested by or exported from a large-scale driftnet nation. After July 1, 1992, the certificate will be required to accompany salmon subject to 50 CFR 216.24(e), if harvested by or exported from a large-scale driftnet nation. The newly revised form identifies the type and quantity of fish, the importer and exporter, the method of harvest (longline, purse seine, large-scale driftnet, other type of gillnet, etc.), the ocean area of harvest, the dates that the fishing trip began and ended, and the flag of the harvesting vessel. The first exporter of the shipment must certify the accuracy of the information provided on the Certificate. For purposes of the exporter's certification, the first exporter is considered the person or company that first exported the shipment or, in the case of Certificates used to authenticate a "dolphin safe" label on shipments originating in the United States, the first seller of the product.

For each fish or fish product harvested by a vessel of a nation identified as using large-scale driftnets, a responsible government official of the harvesting nation must certify that the shipment was not harvested with a large-scale driftnet. This certification may be provided either on a designated section of the Certificate itself or by separate attachment.

For tuna products using a "dolphin safe" label, each exporter, importer, and processor of the product is required to endorse the Certificate, acknowledging that the observer and captain's certificates, as well as the Certificate itself, accurately describe the accompanying shipment. Certain additional documents that are required for tuna products with labels suggesting "dolphin safe" (e.g., observer "dolphin safe" certification, skipper "dolphin safe" certification, etc.) can be noted on and attached to the Certificate.

The "Fisheries Certificate of Origin" will supersede the "Yellowfin Tuna Certificate of Origin", which should continue to be used until November 1, 1991. The requirement for the "Yellowfin Tuna Certificate of Origin" is well known throughout the domestic and international industry. It is anticipated that this modification in the documentation requirements will place very little additional burden on exporters and importers.

The "Fisheries Certificate of Origin" required by these regulations, and effective November 1, 1991, will allow NMFS to determine the origin of tuna and tuna products, whether labelled tuna products are "dolphin safe" as defined by the Act, and the origin and method of harvest of certain other fish species potentially harvested by large-scale driftnet. Notice is hereby given that NOAA Form 370 has been approved under OMB control number 0648–0040 and must accompany shipments of the products listed under 50 CFR 216.24(e)(2) beginning November 1, 1991, as required by 50 CFR 216.24(e)(3) and 50 CFR 247.4.

Authority: 16 U.S.C. 1361 *et seq.*

Dated: September 30, 1991.

Samuel W. McKeen,

Program Management Officer.

[FR Doc. 91–23921 Filed 10–3–91; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 672

[Docket No. 901184–1042]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of change in recordkeeping and reporting requirements; change in observer coverage.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that Daily Production Reports must be submitted by processor vessels and shoreside processing facilities that conduct fishing activity in, or receive groundfish from, any Gulf of Alaska (GOA) statistical reporting area. The Regional Director has also determined that vessels fishing with trawl gear for groundfish in the GOA that are equal to or greater than 60 feet length overall (LOA) must carry a NMFS-certified observer when engaged in directed fishing for groundfish from the commencement of the GOA fourth quarter directed pollock fishery until further notice.

This action is necessary to prevent: (1) Exceeding the total allowable catch for pollock, (2) overfishing of rockfish species and species groups, and (3) exceeding the annual Pacific halibut prohibited species catch (PSC) allocation specified for the GOA trawl fishery. The intent of this action is to ensure optimum use of groundfish, prevent overfishing, and conserve Pacific halibut stocks.

EFFECTIVE DATES: For Daily Production Reports, from 00:01 (midnight), Alaska local time (A.l.t.), September 30, 1991, through the duration of all groundfish trawl fisheries or until further notice. For the 100 percent observer coverage, from the commencement of the fourth quarter GOA pollock fishery through the duration of all directed groundfish trawl fisheries or until further notice.

ADDRESSES: Copies of the "Alaska Groundfish Processor Daily Production Report" forms may be obtained from the processors' recordkeeping reference manual or from the Regional Director, Alaska Region, National Marine Fisheries Service, Fisheries Management Division, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the GOA (FMP) governs the groundfish fishery in the exclusive economic zone in the GOA under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council (Council) and is implemented by regulations governing the foreign fishery at 50 CFR 611.92 and by regulations governing the U.S. fishery at 50 CFR parts 620 and 672.

As stated in § 672.27(b), the purpose of requiring observers on board domestic fishing vessels is to allow the collection of Alaska fisheries data deemed by the Regional Director to be necessary and appropriate for research, management and compliance monitoring of the groundfish fisheries. Currently, operators of vessels that are 125 feet LOA are required to carry observers at all times while fishing for groundfish and operators of vessels that are from 60 to 125 feet LOA are required to carry observers during 30 percent of their days during fishing trips in each calendar quarter of the year in which they fish more than 10 days in the groundfish fishery. The regulations (50 CFR 672.27(c)(1)(i)) also specify that operators of vessels subject to 50 CFR part 672 must carry an observer on board the vessel whenever fishing or processing operations are conducted if the operator is required to do so by the Regional Director. Additionally, the Regional Director has the authority to require Daily Production Reports from processor vessels and shoreside

processing facilities for fisheries that are fast-paced, have variable effort, or small quotas and large effort. The Regional Director used the following criteria to assess the need for requiring Daily Production Reports and 100 percent observer coverage for vessels 60 feet LOA or greater: accuracy and completeness of catch and discard reporting, the stability of effort and harvest rates in the fishery, and remaining amounts of groundfish TAC and PSC.

Pollock

The amount of a species or species group apportioned to a fishery is TAC, as stated in § 672.20(c)(1). Under § 672.20(a)(2)(v), the TAC for pollock in the Western and Central Regulatory Areas is apportioned equally to the Western pollock subarea (combined statistical areas 61 and 62) and the Central pollock subarea (statistical area 63) (56 FR 28112; June 19, 1991). Each apportionment is divided equally into four quarterly reporting periods of the fishing year. The announcement of initial harvest specifications for pollock for the 1991 fishing year established a TAC of pollock for the combined Western/Central Regulatory Area of 100,000 metric tons (mt). Each subarea received 50,000 mt which was further apportioned into quarterly amounts of 12,500 mt, plus or minus that quarter's proportional share of over or under harvest from prior quarters (56 FR 28112; June 19, 1991).

Increased observer coverage is necessary to improve accounting of total fishing mortality including discards for the fourth quarter pollock season. The amount of pollock remaining in the fourth quarter is approximately 25,000 mt for the combined Western and Central subareas. The Regional Director anticipates intense fishing effort for the remaining amount of pollock when the fourth quarter directed fishery reopens. The current estimate of exvessel value for the remaining amount of pollock is about $4.8 million. Also, more vessels are available to participate in the GOA directed pollock fishery due to fishery closures in the Bering Sea and Aleutian Islands area. Under current regulations NMFS would have to rely solely on vessel discard reports for accounting the total pollock mortality.

NMFS considered including vessels of 55 to 59 feet LOA in the observer coverage requirement, both in regard to 100 percent coverage for these vessels and alternatively, to require that they comply with the 30 percent coverage requirement usually applied to the 60 to 124 feet LOA vessels, for the period of time 100 percent coverage was required for all trawl vessels 60 feet LOA or greater. In reviewing the 1990 data for this size class, it was determined that vessels 55 to 59 feet LOA took such a small percentage of the catch that the cost of additional observer coverage outweighed the amount of data to be gained from such a requirement. The 55 to 59 feet LOA vessels only took 4.54 percent of the entire GOA groundfish catch and only 0.87 percent of the pollock, rockfish, and flatfish fisheries.

Vessels less than 55 feet LOA usually cannot accommodate an observer safely. Vessels 55 to 59 feet LOA include the 58 feet LOA "limit seiners" that were built for larger crew sizes than are needed when using trawl gear instead of purse seine gear. Many of these vessels can also carry more fish than vessels in the 60 feet LOA range. However, these vessels did not comprise a significant percentage of the effort NMFS needs to monitor with increased observer coverage.

Because of the small quota of pollock for the fourth quarter and the large effort expected, the Regional Director believes that the fourth quarter directed pollock fishery will be a fast-paced fishery and the quota could be exceeded under existing management measures. Daily Production Reports will provide NMFS with timely information necessary to monitor accurately the harvest rate of pollock and reduce the time necessary to determine if additional pollock fishing may be allowed.

NMFS expects to establish a fixed season for the fourth quarter directed pollock fishery in advance of the fourth quarter opening. Carriage of observers by all vessels equal to or greater than 60 feet LOA during the directed pollock fishery will enhance full accounting of the pollock harvest, while providing data that can be used to judge the adequacy of 30 percent observer coverage. Daily Production Reports will serve to minimize the effect that a lengthy delay would have on processors and harvesting vessels.

Rockfish Overfishing

The Guidelines for Fishery Management Plans (guidelines), 50 CFR 602.11(c)(1) (54 FR 30834; July 24, 1989), define overfishing as a level or rate of fishing mortality that jeopardizes the long term capacity of a stock or stock complex to produce its maximum sustainable yield on a continuing basis. Furthermore, the FMP requires that conservation and management measures shall prevent overfishing (56 FR 2700; January 24, 1991). The FMP describes the maximum fishing mortality rate that defines the amount of harvest that constitutes overfishing for fisheries in the GOA. In its report to the Council for the GOA, the Scientific and Statistical Committee (SSC) recommended the acceptable biological catch (ABC) for several rockfish groups, including shortraker-rougheye, pelagic shelf rockfish, "other rockfish," and thornyhead rockfish. The SSC cautioned that each of the recommended ABCs was equivalent to the definition of overfishing. The Council's Advisory Panel recommended that many of the TACs specified for GOA rockfish be equal to the ABCs. The Advisory Panel's recommendation was adopted by the Council and approved by the Secretary of Commerce. The final notice of 1991 initial specifications for the Gulf of Alaska (56 FR 8723; March 1, 1991) established an ABC and TAC of 2,000 mt for shortraker-rougheye rockfish, 4,800 mt for pelagic shelf rockfish, 10,000 mt for "other rockfish," and an ABC of 1,798 mt and TAC of 1,398 mt for thornyhead rockfish.

In response to the guidelines, prior management action has designated shortraker-rougheye as a prohibited species in the Eastern and Central Regulatory Areas of the GOA (56 FR 29443; June 27, 1991). Given the small amounts of these four rockfish species still available, it is likely that the anticipated increase in fishing effort for the pollock fishery will result in removals of rockfish above the overfishing level at a rate that will be impossible to monitor effectively. In consideration of the expected high effort and the potential for bycatch and discards of rockfish in other directed trawl fisheries in the GOA, the Regional Director is expanding observer coverage and requiring Daily Production Reports to enhance inseason data monitoring of bycatch mortality and prevent overfishing of the above rockfish groups.

Pacific Halibut PSC

Under 50 CFR 672.20(f)(2), an annual 1991 Pacific halibut PSC limit is established and allocated quarterly for trawl gear in the GOA (56 8723; March 1, 1991). Under prevailing management, unexpected increases in fishing effort can cause quarterly or yearly PSC allowances to be exceeded before catch data become available to managers and fishery closures are implemented. As in the case of pollock and rockfish discussed above, the Regional Director is increasing observer coverage and requiring Daily Production Reports to enhance inseason catch information in the GOA under § 672.27(b) to obtain timely data necessary for the management of the groundfish fisheries and to prevent the halibut PSC limit

specified for trawl gear from being exceeded.

As authorized under § 672.27(c)(1)(i), the Regional Director is requiring that trawl vessels equal to or greater than 60 feet LOA carry a NMFS-certified observer on board when engaged in directed fishing for groundfishing in the GOA from the date of commencement of the fourth quarter GOA pollock fishery. Also, under § 672.5(c)(3)(i), the Regional Director is requiring processor vessels and shoreside processing facilities that conduct fishing activity in, or receive groundfish from, any GOA reporting area to submit Daily Production Reports in addition to Weekly Production Reports. Daily Production Reports must include all information required by § 672.5(c)(3)(ii) for groundfish harvested from the applicable reporting areas. Processors must submit the required information on the "Alaska Groundfish Processor Daily Production Report" form available in the processors' recordkeeping reference manual or from the Regional Director at the address listed in the manual. Processors must transmit their completed Daily Production Reports to the Regional Director by facsimile transmission to number (907) 586–7131, by telephone via number (907) 586–7228, or by telex (U.S. code) at 6229600 no later than 12 hours after the end of the day the groundfish was processed.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impracticable and contrary to the public interest to provide notice and opportunity for prior comment or to delay for 30 days its effective date under sections 553 (b) and (d) of the Administrative Procedure Act. Intense fishing effort without observer coverage and Daily Production Reports would invite exceeding the TAC for pollock and the PSC allocation for Pacific halibut and overfishing of rockfish species and species groups. The fisheries that will catch Pacific halibut and rockfish are ongoing and will intensify within the next 2 weeks as fisheries in Bering Sea area close and vessels currently participating those fisheries begin harvesting in the GOA.

This action is taken under §§ 672.5 and 672.27 and is in compliance with Executive Order 12291.

The collection-of-information requirement contained in this notice was approved by the Office of Management and Budget (OMB) as a revision to OMB No. 0648–213 (56 FR 9636; March 7, 1991).

List of Subjects in 50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 30, 1991.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–23915 Filed 10–1–91; 10:21 am]

BILLING CODE 3510–22–M

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50 CFR Part 672

[Docket No. 910938–1238]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule.

SUMMARY: The Secretary of Commerce (Secretary) has determined that an emergency exists in groundfish fisheries in the Gulf of Alaska. By emergency regulation, the Secretary is postponing until further notice the opening of the fourth quarter directed pollock fishery in the Gulf of Alaska. Emergency action by the Secretary is necessary to ensure adequate consideration of the effects of the fishery on the environment, particularly with respect to Steller sea lions, a species listed as threatened under the Endangered Species Act (ESA). This action is intended to further the goals and objectives contained in the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) and in the ESA.

DATES: Effective October 1, 1991, through January 2, 1992.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fisheries Management Division, NMFS), (907) 586–7228.

SUPPLEMENTARY INFORMATION: The domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) of the Gulf of Alaska are managed by the Secretary under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations governing the foreign fishery at 50 CFR part 611 and by regulations governing the U.S. fishery at 50 CFR part 672. Additional regulations applicable to the U.S. fishery are codified at 50 CFR part 620.

At times, amendments to the FMP and its implementing regulations are necessary to respond to fishery conservation and management problems that cannot be addressed within the time frame of the normal procedures provided for by the Magnuson Act. Section 305(c) of the Magnuson Act, 16 U.S.C. 1855(c), authorizes the Secretary to promulgate emergency regulations necessary to address these emergencies. These emergency regulations may remain in effect for not more than 90 days after publication in the **Federal Register**, with a possible 90-day repromulgation.

Under regulations implementing the FMP, the Secretary annually specifies total allowable catch (TAC) amounts for the major commercially exploited groundfish species of the Gulf of Alaska. Under 50 CFR 672.20(c), a final notice specifying 1991 Gulf of Alaska TACs for groundfish species other than pollock was published in the **Federal Register** on March 1, 1991 (56 FR 8723). Because of the need to ensure that the 1991 Gulf of Alaska pollock fishery was not likely to jeopardize the continued existence of Steller sea lions, a pollock TAC was not specified until after conclusion of consultation under section 7 of the ESA. After concluding that the 1991 Gulf of Alaska pollock fishery was not likely to jeopardize the continued existence of Steller sea lions, the Secretary published a notice in the **Federal Register** specifying a total 1991 pollock TAC of 103,400 metric tons (mt), 100,000 mt of which was made available for harvest in the Western and Central areas of the Gulf of Alaska (56 FR 28112; June 19, 1991).

The Secretary also promulgated emergency regulations to ameliorate potential, but unproved, adverse effects that the Gulf of Alaska pollock fishery might have on Steller sea lions (56 FR 28112; June 19, 1991). One of these emergency regulations is intended to limit the maximum amount of pollock that can be harvested in any quarterly reporting period. Currently, a regulation implementing the FMP divides the pollock TAC for the Western and Central subareas of the Gulf of Alaska into four equal allowances, each of which is available for harvest in one of four quarterly reporting periods, a period virtually identical to a calendar quarter (§ 672.20(a)(2)(iv)). Although pollock TAC amounts remaining unharvested at the end of a quarterly reporting period are added in equal proportions to subsequent quarters, the emergency regulations limit the maximum amount of pollock available for harvest in any quarter to 150 percent of the initial quarterly allowance (§ 672.20(a)(2)(v)) (56 FR 28112; June 19, 1991). This emergency regulation was intended to prevent excessive pollock

harvests in any quarter, which possibly could reduce food availability for, or feeding efficiency of, Steller sea lions.

The total directed pollock harvest through the third quarter of 1991 is approximately 70,013 mt for the Western and Central areas. Actual harvests in the third quarter in the Western subarea exceeded the maximum limit available for the third quarter by about 38 percent (7,092 mt) when fishing vessels from the Bering Sea unexpectedly entered the Western subarea. This unanticipated fishing effort resulted in very high pollock catch rates before NMFS could close the directed pollock fishery.

Although the overage is a very small proportion of the total pollock biomass, the Secretary decided to consider the need for additional management measures to prevent overharvest in the fourth quarter and to evaluate the likely effects, if any, of the fourth quarter fishery on Steller sea lions. To accomplish those goals, the Secretary reinitiated consultation under section 7 of the ESA and prepared an environmental assessment under the National Environmental Policy Act (NEPA) that analyzed the environmental effects of a fourth quarter pollock fishery in 1991.

The Secretary has determined that an emergency exists in the Gulf of Alaska directed pollock fishery. Under current regulations, the directed pollock fishery is scheduled to reopen in the Western and Central areas of the Gulf of Alaska on September 30, 1991, the first day of the fourth quarterly reporting period (§§ 672.2 and 672.20(a)(2)(v) (56 FR 28112; June 19, 1991). However, this scheduled opening presents two problems. First, it was necessary to conclude section 7 consultation and complete the environmental assessment under the ESA and NEPA prior to the opening of the fourth quarter directed pollock fishery. Second, a lawsuit has been filed in Federal District Court for the Western District of Washington challenging the 1991 directed pollock fishery and its effects on Steller sea lions, *Greenpeace USA* v. *Mosbacher*, Civ. No. 91–887(Z)C (W.D. Wash.). Final disposition of this lawsuit is not expected until October 11, 1991, shortly after the scheduled opening of the directed pollock fishery. Therefore, the Secretary by this action is postponing until further notice the reopening of the directed pollock fishery in the Western and Central subareas of the Gulf of Alaska in order to conclude consultation, complete the environmental assessment, and allow adequate time for judicial review in the District Court.

After concluding consultation and completing the environmental assessment, and if otherwise authorized by law, the Secretary shall reopen the directed pollock fishery under restrictions necessary to ensure that the fourth quarter pollock allowance, and consequently the 1991 pollock TAC, is not exceeded.

Secretarial Determinations

The Secretary has determined that this emergency rule is necessary and appropriate for the conservation and management of the groundfish fishery.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this emergency rule is needed in order to postpone further directed fishing for pollock to allow the U.S. District Court of the Western District of Washington adequate time to dispose of the action described above, and that this rule is consistent with the Magnuson Act and other applicable law. The Assistant Administrator finds that reasons summarized above justifying promulgation of this emergency rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for prior comment or to delay for 30 days its effective date under sections 553 (b) and (d) of the Administrative Procedure Act.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act.

This postponement of further directed fishing for pollock is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02–10. This action is unlikely to result in any additional effects on the human environment not already analyzed in the environmental assessment prepared for the 1991 pollock fishery in June, 1991 (56 FR 28112; June 19, 1991).

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget with an explanation of why following the usual procedures of that order is not possible. This rule is exempt from the procedures of the Regulatory Flexibility Act, because it is issued without opportunity for prior public comment.

This rule does not contain a collectio of information requirement for purposes of the Paperwork Reduction Act.

The rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: September 30, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 672 is amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 672.23, paragraph (d) is added from October 1, 1991, to January 2, 1992, to read as follows:

672.23 Seasons.

* * * * *

(d) Notwithstanding any other provision of this part, directed fishing for pollock in the Central and Western Regulatory subareas is prohibited.

[FR Doc. 91–23914 Filed 10–1–91; 10:19 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 56, No. 193
Friday, October 4, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1209

[FV-91-276]

RIN 0581-AA49

Mushroom Promotion, Research, and Consumer Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6101–6112) (Act) provides that an association of mushroom producers or any other person that will be affected by the provisions of the Act may request the issuance of, and submit a proposal for, an order implementing the Act. This proposed rule contains a mushroom promotion, research, and consumer information order proposed to the Secretary of Agriculture (Secretary) by a mushroom industry organization, and several proposed order provisions submitted by a mushroom producer. Both the proposed order and order provisions were submitted in response to an invitation for proposals which was published in the Federal Register. After receiving and considering comments concerning these proposals, the Department of Agriculture (Department) will publish a proposed mushroom promotion, research, and consumer information order and provide an opportunity for public comment. A referendum must be conducted among producers and importers before an order can become effective. If the final order is approved by mushroom producers and importers voting in a referendum, producers and importers will be required to pay assessments, which would be used in a national program of mushroom promotion, research, consumer information, and industry information.

DATES: Comments must be received by November 4, 1991.

ADDRESSES: Interested persons are invited to submit written comments concerning these proposals to: Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, USDA. P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Three copies of all written material should be submitted, and they will be made available for public inspection at the Office of the Docket Clerk during regular working hours. All comments should reference the docket number and the date and page number of this issue of the Federal Register. Comments concerning the information collection requirements contained in this action should also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for the Agricultural Marketing Service, USDA.

FOR FURTHER INFORMATION CONTACT: Richard Schultz, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone (202) 245–5172.

SUPPLEMENTARY INFORMATION: This proposed order and additional proposed order provisions are being published pursuant to the Mushroom Promotion, Research, and Consumer Information Act of 1990 (Subtitle B of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, November 28, 1990, 7 U.S.C. 6101–6112) hereinafter referred to as the Act. After reviewing and considering all comments submitted by interested persons, the Department will publish a proposed order incorporating appropriate provisions of this proposal, insofar as they are consistent with the Act, and other provisions which may be necessary for the proper administration of the mushroom promotion, research, and consumer information program in conformity with the requirements of the Act. During the comment period on the proposed order, the Department plans to hold a public meeting to give interested persons an opportunity to express their views or ask questions. The time and place of the meeting will be announced when the proposed order is published.

The proposals contained herein have been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and have been determined to be "non-major" rules.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed action on small entities.

The most recent available census of agricultural producers indicates that there are 460 mushroom producers in the United States, an estimated 200 of whom would be subject to the proposed order. Of these 200 estimated producers, a minority would be classified as small businesses. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms, which include mushroom handlers and importers, have been defined as those having annual receipts of less than $3,500,000. There are approximately 100 handlers, including producers who are also handlers, and not more than 3 importers, out of approximately 30 importers, who would be subject to the provisions of the proposed order, a majority of whom would be classified as small entities. The proposed order would require each mushroom producer and importer who produces or imports 500,000 pounds or more of fresh mushrooms per year to pay an assessment not to exceed one cent per pound. In addition, an estimated 100 first handlers of fresh mushrooms, a majority of whom would be classified as small firms, would be required to collect and remit the assessments. Although the maximum assessment collection is expected to total $4.5 million annually, the economic impact of a one cent or less assessment per pound on each producer or importer subject to the order would not be significant. The proposed order also imposes a reporting and recordkeeping burden on producers, first handlers, and importers. This burden should average approximately seven hours per year, so its economic impact would not be significant. In addition, the promotion, research, and consumer information program funded by the assessments is

expected to benefit producers, handlers, and importers by expanding and maintaining new and existing markets and uses for fresh mushrooms. Such benefits are expected to outweigh the costs of the program. Therefore, the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Comments

Interested persons are invited to submit written comments concerning these proposals. Comments must be sent to the Fruit and Vegetable Division's Docket Clerk and must make reference to the date and page number of this issue of the **Federal Register**. Comments on these proposals submitted to the Department will be available for public inspection during regular business hours. The Department will consider all comments received by the deadline, before issuing a proposed order.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980, the information collection requirements contained in this action have been approved by the Office of Management and Budget (OMB) and assigned OMB number 0581–0093, except for the Council nominee background statement form which is assigned OMB number 0505–0001. This action sets forth the provisions of a proposed nationwide program for mushroom promotion, research, and consumer information to be funded by mushroom producers and importers. Information collection requirements that are included in the proposed order include:

(1) A requirement that each first handler and importer who handles or imports at least 500,000 pounds of fresh mushrooms annually must file reports at specified intervals. The estimated number of first handlers and importers filing such reports is 105, each submitting a maximum of 12 reports per year, with an estimated average reporting burden of 30 minutes per report. However, these persons may alternatively prepay assessments annually, requiring only an initial report of anticipated assessments and a final annual report of actual handling;

(2) An exemption application for persons who produce less than 500,000 pounds of fresh mushrooms annually concerning exemptions from assessments and recordkeeping requirements. The estimated number of persons filing this application is 290, each submitting one application per year, with an estimated average reporting burden of 15 minutes per application;

(3) A referendum ballot to be submitted in an upfront referendum and periodically thereafter to indicate whether producers and importers favor continuance of the order. The estimated number of voters completing this ballot is 205, each submitting one ballot approximately every five years, with an estimated average reporting burden of 6 minutes per ballot;

(4) A nominee background statement form for Council membership. The estimated number of individuals completing this form is 18 during the first year of the order and approximately 6 per year thereafter. Two eligible individuals will be nominated for each open position on the Council, each of whom will have an estimated average reporting burden of 6 minutes per form; and

(5) A requirement to maintain records sufficient to verify reports submitted under the order. The estimated number of persons required to comply with this requirement is 200, each of whom will have an estimated average recordkeeping burden of 7 minutes per year.

Comments concerning the information collection requirements contained in this action should also be sent to the Office of Information and Regulatory Affairs; Office of Management and Budget; Washington, DC 20503. Attention: Desk Officer for Agricultural Marketing Service, USDA.

Background

The Mushroom Promotion, Research, and Consumer Information Act of 1990 (Subtitle B of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990; Pub. L. 101–624, November 28, 1990) herein referred to as the Act, authorizes the Secretary of Agriculture (Secretary) to establish a national mushroom promotion, research and consumer information program. This program would be funded by an assessment on producers and importers not to exceed one cent per pound of fresh mushrooms.

The Act provides that the Secretary may propose the issuance of an order, or an association of mushroom producers or any other person that will be affected by the provisions of the Act may request the issuance of, and submit a proposal for, such an order. After receipt of a request and proposal for an order, or when the Secretary determines to propose an order, the Act provides that the Secretary shall publish the proposed order and give due notice and opportunity for public comment. Since two proposals were submitted by interested persons, the Secretary decided to publish both proposals for public comment, insofar as they are in accordance with the Act, before publishing a proposed order.

The Act requires that any order issued thereunder shall contain certain specified terms and conditions. Such terms and conditions include provisions concerning the composition and establishment of a Mushroom Council (Council), and the powers and duties of such Council. Also included under terms and conditions which are required to be in an order are provisions concerning assessments, books and records, and the availability of information.

The Act provides that the Council would be composed of at least four and not more than nine members. There would be four geographic regions established, which would represent the geographic distribution of mushroom production throughout the United States, with one member who is a producer nominated and appointed from each region that produces, on average, at least 35,000,000 pounds of mushrooms annually. There would be a fifth region established, which would represent importers throughout the United States, with one member who is an importer nominated and appointed from such region importing, on average, at least 35,000,000 pounds of mushrooms annually. Subject to the nine-member limit on the number of Council members, the Secretary would appoint an additional member to the Council from a region for each additional 50,000,000 pounds of production or imports per year, on average, within the region. Should, in the aggregate, regions be entitled to levels of representation that would exceed the nine-member limit on the Council, then those regions entitled to representation in excess of the basic quantity used in establishing representation on the Council would have representation allocated among them based on production or importation so that the Council does not exceed its nine-member limit.

The Department issued an invitation to submit proposals for an initial order in the January 30, 1991, issue of the **Federal Register** (56 FR 3425).

In response to the invitation to submit proposals, one proposal for a complete promotion, research, and consumer information order was received from the American Mushroom Institute (AMI). AMI is a national trade association which is primarily controlled by its grower membership of 117 growers. It also has associate members who are suppliers of mushroom equipment, various production supplies, or are

otherwise engaged in supplying goods and services to the industry. A third category called professional members is comprised of academic professionals and persons involved predominantly in mushroom research. There are approximately 300 persons in the association. Several provisions to be incorporated into a proposed promotion, research, and consumer information order were received from United Foods, Inc. (United). United is a mushroom producer with operations in the States of California, Utah, and Oregon. The Department is publishing the proposal submitted by the AMI and the provisions submitted by United, insofar as they are consistent with the Act.

The order provisions proposed by AMI, insofar as they were determined to conform with the Act, are summarized as follows:

Sections 1209.1–1209.20 of the proposed order define certain terms which are used in the order.

Sections 1209.30–1209.39 of the proposed order concern the establishment, membership, nominations, appointment, term of office, vacancies, procedure, compensation and reimbursement, powers, and duties of a Mushroom Council, which would be the body organized to administer the order subject to the oversight of the Secretary of Agriculture.

Section 1209.40 of the proposed order would authorize the Council to receive, develop, and evaluate programs, plans, and projects for promotion, research, consumer information, and industry information with respect to fresh mushrooms and mushroom products. The Secretary would approve such programs, plans or projects prior to their implementation.

Section 1209.50 of the proposed order would authorize the Council to incur expenses necessary for the performance of its duties and to recommend an annual budget. Section 1209.51 of the proposed order would provide for the collection of assessments. The maximum assessment rate would be one cent per pound of non-exempt fresh mushrooms produced domestically or imported into the United States. The assessment section also contains the procedures to be followed by first handlers and importers when remitting assessments; the procedures to by followed by producers and importers seeking exemption from assessments; the establishment of a late payment charge and interest charges for unpaid or late assessments; the collection of assessments through approved third-party organizations; and the prepayment of assessments. Section 1209.52 of the proposed order would prohibit funds received under this program from influencing governmental action, with specified exceptions.

Sections 1209.60–1209.62 of the proposed order contain reporting and recordkeeping requirements for persons subject to the order, and provide that all information obtained by the Council or the Department from books and reports required by the order would be kept confidential.

Sections 1209.70–1209.77 of the proposed order concern miscellaneous provisions which include the right of the Secretary; procedures for the suspension or termination of the order; proceedings after the termination of the order; effect of termination or amendment of the order; personal liability of Council members; handling of intellectual property arising from funds collected by the Council; amendments to the order; and separability of order provisions.

The order provisions proposed by United, insofar as they were determined to conform with the Act, are summarized as follows:

Definitions of the terms *producer* and *research;*

A provision which would prohibit contracting with producers or importers for the purpose of mushroom research, promotion, or advertising which would be added to § 1209.38(j) of the order;

A provision concerning the contents and distribution of the Council's annual report which would be included in § 1209.39 of the order;

A provision to be added to § 1209.40 of the order which would ensure that funds are expended by the Council in mushroom market areas in reasonable proportion to the assessments collected from producers in those areas; Another provision to be added to § 1209.40 of the order which would require the conduct of an independent cost/benefit analysis during the pre-approval, implementation, and post-completion stages of each program, plan, and project; Two provisions to be included in § 1209.40 of the order which would prohibit production controls, including the use of any funds collected to develop, study, hold meetings, prepare reports or publish documents or articles regarding production controls;

A provision which would be included to § 1209.50 of the order which would prohibit any funds collected under the order from being used to reimburse, defray, or make payment of costs incurred in developing, drafting, studying, lobbying on or promoting the legislation authorizing the order;

A provision to be added to § 1209.53 of the order which would prohibit any funds collected under the order from being used to lobby on behalf of, advocate, promote, or support any program to control the production of mushrooms; and

Two provisions to be added to § 1209.60 of the order which would require all persons producing or importing mushrooms into the United States to certify through an independent auditor and report to the Council and the Secretary the amount of mushrooms produced or imported annually.

The following proposed provisions, submitted by United, were determined not to be in conformity with the Act, and as a result, were not incorporated into the proposed order provisions published herein.

(1) United's definition of promotion was not incorporated into the proposed published order provisions. Such a definition goes beyond the provisions in the Act's definition by including branded as well as generic promotion. This definition also proposes that such branded promotion or advertising should be done by market area in proportion to each brand's market share. The Act states that the term "promotion" means any action determined by the Secretary to enhance the image or desirability of mushrooms, including paid advertising. The Act was issued to strengthen the entire fresh mushroom industry's position in the marketplace, maintain and expand existing national markets and uses for fresh mushrooms, and develop new national markets and uses for fresh mushrooms. The Act does not authorize branded promotion or advertising. Other similar national research and promotion programs administered by the Secretary do not permit branded promotion or advertising. The purpose of these commodity programs, through coordinated industry action, is to enhance the image or desirability of the commodity rather than any particular brand. The intent in establishing a coherent national program for fresh mushrooms, in general, would be to increase consumer awareness and demand for all fresh mushrooms and not any particular brands.

(2) United's provision concerning the establishment of a rate of assessment not to exceed one quarter cent per pound of fresh mushrooms handled annually, which shall not increase without first conducting a referendum of mushroom producers and importers, was not incorporated into the proposed published order provisions. The conduct of such a referendum to approve an assessment increase is not required or anticipated in the provisions of the Act. The Act authorizes the rate of

assessment to be determined by the Council using a formula of annual increments specified in the Act. The Council, with approval of the Secretary, may change the rate of assessment at any time, except that the effective rate of assessment, as specified in the Act, may increase incrementally, but not exceed an annual rate of one cent per pound of mushrooms over a four year period. There is no provision in the Act requiring or authorizing a referendum to approve assessment increases already specified in the Act.

(3) United's provision allowing an offset of assessments which would authorize the Council to return to any producer so requesting, a refund of the assessments collected from such producer, of an amount equal to expenditures by such producer which are primarily for promotion or advertising of fresh mushrooms, was not incorporated into the proposed published order provisions. As proposed by United, such offsetting expenditures would include but not be limited to expenditures for branded or generic advertising of mushrooms and expenditures to provide free or reduced price mushrooms to consumers. This provision cannot be incorporated into the order since the Act does not provide for creditable promotion or advertising. Therefore such provision would be outside the scope of the Act.

List of Subjects in 7 CFR Part 1209

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Mushrooms, Reporting and recordkeeping requirements.

The proposals, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed Mushroom Promotion, Research, and Consumer Information Order Submitted by the American Mushroom Institute

Title 7 of the CFR is proposed to be amended by adding part 1209 to read as follows:

PART 1209—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION

Subpart A—Mushroom Promotion, Research, and Consumer Information Order

Definitions

Authority: The Mushroom Promotion, Research, and Consumer Information Act of 1990; 7 U.S.C. 6101 *et seq.*

PART 1209—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION

Subpart A—Mushroom Promotion, Research, and Consumer Information Order

Definitions

§ 1209.1 Act.

Act means the Mushroom Promotion, Research, and Consumer Information Act of 1990, Subtitle B of title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990, Public Law 101–624, 7 U.S.C. 6101–6112, and any amendments thereto.

§ 1209.2 Commerce.

Commerce means interstate, foreign, or intrastate commerce.

§ 1209.3 Consumer Information.

Consumer information means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of mushrooms.

§ 1209.4 Council.

Council means the administrative body referred to as the Mushroom Council established under § 1209.30 of this subpart.

§ 1209.5 Department.

Department means the United States Department of Agriculture.

§ 1209.6 First handler.

First handler means any person who receives or otherwise acquires mushrooms from a producer and prepares for marketing or markets such mushrooms, including any person who markets mushrooms from that person's own production.

§ 1209.7 Fiscal year.

Fiscal year means the 12-month period from January 1 to December 31 each year, or such other period as recommended by the Council and approved by the Secretary.

§ 1209.8 Importer.

Importer means any person who imports, on average, over 500,000 pounds of mushrooms annually from outside the United States.

§ 1209.9 Industry information.

Industry information means information and programs that will lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the mushroom industry.

§ 1209.10 Marketing.

(a) *Marketing* means the sale or other disposition of mushrooms in any channel of commerce.

(b) *To market* means to sell or otherwise dispose of mushrooms in any channel of commerce.

§ 1209.11 Mushrooms.

Mushrooms means all varieties of cultivated mushrooms grown within the United States and marketed for the fresh market, or imported into the United States and marketed for the fresh market, except such term shall not include mushrooms that are commercially marinated, canned, frozen.

cooked, blanched, dried, packaged in brine, or otherwise processed in such manner as the Council, with the approval of the Secretary, may determine.

§ 1209.12 Part and subpart.

Part means this mushroom promotion and research order and all rules and regulations and supplemental orders issued thereunder, and the term *subpart* means the mushroom promotion and research order.

§ 1209.13 Person.

Person means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1209.14 Producer.

Producer means any person engaged in the production of mushrooms who owns or who shares the ownership and risk of loss of such mushrooms and who produces, on average, over 500,000 pounds of mushrooms per year.

§ 1209.15 Programs, plans, and projects.

Programs, plans, and projects means promotion, research, consumer information, and industry information plans, studies, projects, or programs conducted pursuant to this part.

§ 1209.16 Promotion.

Promotion means any action determined by the Secretary to enhance the image or desirability of mushrooms, including paid advertising.

§ 1209.17 Region.

Region means one of the described geographic subdivisions of the production area described in § 1209.30 (b) or as later realigned or reapportioned pursuant thereto, or the import region described in § 1209.30(c).

§ 1209.18 Research.

Research means any type of study to advance the image, desirability, safety, marketability, production, product development, quality, or nutritional value of mushrooms.

§ 1209.19 Secretary.

Secretary means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1209.20 United States and State.

(a) *State* means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) *United States* means collectively the several States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

Mushroom Council

§ 1209.30 Establishment and membership.

(a) There is hereby established a Mushroom Council of not less than four or more than nine members. The Council shall be composed of producers appointed by the Secretary under § 1209.33, except that, as provided in paragraph (c) of this section, importers shall be appointed by the Secretary to the Council under § 1209.33 once average imports for an annual period determined by the Secretary reach 35,000,000 pounds of mushrooms.

(b) For purposes of nominating and appointing producers to the Council, the United States shall be divided into four geographic regions and the number of Council members from each region shall be as follows:

Region 1—including Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Ohio, Kentucky, Indiana, Michigan, Wisconsin, Illinois, Missouri, Iowa, Nebraska, Kansas, Minnesota, North Dakota, South Dakota, Montana, Colorado, and Wyoming—*2 Members*

Region 2—including Pennsylvania, Delaware, New Jersey, the District of Columbia, West Virginia, Virginia, and Maryland—*3 Members*

Region 3—including Washington, Oregon, Idaho, Utah, Arizona, California, Nevada, Alaska, and Hawaii—*3 Members*

Region 4—including New Mexico, Texas, Oklahoma, Arkansas, Louisiana, Alabama, Mississippi, Georgia, Tennessee, North Carolina, South Carolina, Florida, and the Commonwealth of Puerto Rico—*1 Member*

(c) Importers shall be represented by a single, separate region, referred to as Region 5, consisting of the United States as defined in § 1209.20(b) when average imports for an annual period determined by the Secretary equal or exceed the 35,000,000 pound minimum.

(d) At least every five years, and not more than every three years, the Council shall review changes in the geographic distribution of mushroom production volume throughout the United States and import volume, using the average annual mushroom production and imports over the preceding four years, and, based on such review, shall recommend to the Secretary reapportionment of the regions established in paragraph (b) of this section, or modification of the number of members from such regions, as determined under the rules established in paragraph (e) of this section, or both, as necessary to best reflect the geographic distribution of mushroom production volume in the United States and representation of imports, if applicable.

(e) Subject to the nine-member maximum limitation, the following procedure will be used to determine the number of members for each region to serve on the Council under paragraph (d) of this section:

(1) Each region that has a mushroom production of 35,000,000 pounds or more, on average, for an annual period shall be entitled to one representative on the Council.

(2) As provided in paragraph (c) of this section, importers shall be represented by a single, separate region, which shall be entitled to one representative, if such region imports, on average, at least 35,000,000 pounds of mushrooms annually.

(3) Each region shall be entitled to representation by an additional Council member for each 50,000,000 pounds of average annual production or imports in excess of the initial 35,000,000 pounds within the region qualifying the region for representation.

(4) Should, in the aggregate, regions be entitled to levels of representation under paragraphs (e) (1), (2) and (3) of this section that would exceed the nine-member limit on the Council under the Act, the regions shall be entitled to representation on the Council as follows:

(i) Each region first shall be assigned one representative on the Council pursuant to paragraphs (e) (1) and (2) of this section.

(ii) Then, each region with 50,000,000 pounds of average annual production or imports in excess of the initial 35,000,000 pounds of production or imports qualifying the region for representation shall be assigned one additional representative on the Council, except that if under such assignments all five regions, counting importers as a region, if applicable, would be entitled to additional representatives, that region with the smallest annual average volume, in terms of production or imports, will not be assigned an additional representative.

(iii) After members are assigned to regions under paragraphs (e)(4) (i) and (ii) of this section, if less than the entire nine seats on the Council have been assigned to regions, the remaining seats on the Council shall be assigned to each region for each 50,000,000 pound increment of average annual production or import volume in such region in excess of 85,000,000 pounds until all the seats are filled. If for any such 50,000,000 pound increment, more regions are

eligible for seats than there are seats available, the seat or seats assigned for such increment shall be assigned to that region or those regions with greater annual average production or import volume than the other regions otherwise eligible at that increment level.

(f) In determining the volume of mushrooms produced in the United States or imported into the United States for purposes of this section, the Council and the Secretary shall:

(1) Only consider mushrooms produced or imported by producers and importers, respectively, as those terms are defined in §§ 1209.8 and 1209.14; and

(2) Use the information received by the Council under § 1209.60, and data published by the Department.

(g) For purposes of the provisions of this section relating to the appointment of producers and importers to serve on the Council, the term *producer* or *importer* refers to any individual who is a producer or importer, respectively, or if the producer or importer is an entity other than an individual, an individual who is an officer or employee of such producer or importer.

§ 1209.31 Nominations.

All nominations for appointments to the Council under § 1209.33 shall be made as follows:

(a) As soon as practicable after this subpart becomes effective by the Secretary, nominations for appointment to the initial Council shall be obtained from producers by the Secretary. In any subsequent year in which an appointment to the Council is to be made, nominations for positions whose terms will expire at the end of that year shall be obtained from producers, and as appropriate, importers, and certified by the Council and submitted to the Secretary by August 1 of such year, or such other date as approved by the Secretary.

(b) Nominations shall be made at regional caucuses of producers or importers, or by mail ballot as provided in paragraph (e) of this section, in accordance with procedures prescribed in this section.

(c) Except for initial Council members, whose nomination process will be initiated by the Secretary, the Council shall issue a call for nominations by February 1 of each year in which nominations for an appointment to the Council is to be made. The call shall include, at a minimum, the following information:

(1) A list by region of the vacancies for which nominees may be submitted and qualifications as to producers and importers.

(2) The date by which the names of nominees shall be submitted to the Secretary for consideration to be in compliance with paragraph (a) of this section.

(3) A list of those States, by region, entitled to participate in the nomination process.

(4) The date, time, and location of any next scheduled meeting of the Council, and national and State producer or importer associations, if known, and of the regional caucuses, if any.

(d)(1) Except as provided in paragraph (e) of this section, nominations for each position shall be made by regional caucus in the region entitled to nominate for such position. Notice of such caucus shall be publicized to all producers or importers within the region, and to the Secretary, at least 30 days prior to the caucus. The notice shall have attached to it the call for nominations from the Council and the Department's equal opportunity policy. Except with respect to nominations for the initial appointments to the Council, the responsibility for convening and publicizing the regional caucus shall be that of the Council.

(2) All producers or importers within the region may participate in the caucus. However, if a producer is engaged in the production of mushrooms in more than one region or is also an importer, such person's participation within a region shall be limited to one vote and shall only reflect the volume of such person's production or imports within the applicable region.

(3) The regional caucus shall conduct the selection process for the nominees in accordance with procedures to be adopted at the caucus subject to the following requirements:

(i) There shall be two individuals nominated for each open position.

(ii) Each nominee shall meet the qualifications set forth in the call.

(iii) If a producer nominee is engaged in the production of mushrooms in more than one region or is also an importer, such individual shall participate within the region that such individual so elects in writing to the Council and such election shall remain controlling until revoked in writing to the Council.

(e) After the regional caucuses for the initial Council, the Council may conduct the selection of nominees by mail ballot in lieu of a regional caucus.

(f) When producers or importers are voting for nominees to the Council, whether through a regional caucus or a mail ballot, the following conditions shall apply:

(1) Voting for any open position shall be on the basis of:

(i) One vote per eligible voter; and

(ii) Volume of average annual production or imports of the eligible voter within that region.

(2) Whenever the producers or importers in a region are choosing nominees for one open position on the Council, the proposed nominee with a majority of votes cast and the proposed nominee with a majority of the volume of production or imports voted shall be the nominees submitted to the Secretary. If a proposed nominee receives both a majority of votes cast and a majority of the volume of production or imports voted, then the proposed nominee with the second highest number of votes cast shall be a nominee submitted to the Secretary along with such proposed nominee receiving both a majority of votes cast and a majority of the volume of production or imports voted.

(3) Whenever the producers or importers in a region are choosing nominees for more than one open position on the Council at the same time, the number of the nominations submitted to the Secretary shall equal twice the number of such open positions, and for each open position shall consist of the proposed nominee with a majority number of votes cast and the proposed nominee with a majority of the volume of production or imports voted with respect to that position, subject to the rule set out in paragraph (f)(2) of this section. An individual shall only be nominated for one such open position.

(4) Voters shall certify on their ballots as to their average annual production or import volume within the region involved. Such certification shall be subject to verification.

(g)(1) The Secretary may reject any nominee submitted. If there are insufficient nominees from which to appoint members to the Council as a result of the Secretary's rejecting such nominees, additional nominees shall be submitted to the Secretary under the procedures set out in this section.

(2) Whenever producers or importers in a region cannot agree on nominees for an open position on the Council under the preceding provisions of this section, or whenever they fail to nominate individuals for appointment to the Council, the Secretary may appoint members in such manner as the Secretary, by regulation, determines appropriate.

§ 1209.32 Acceptance.

Each individual nominated for membership on the Council shall qualify by filing a written acceptance with the Secretary at the time of nomination.

§ 1209.33 Appointment.

From the nominations made pursuant to § 1209.31, the Secretary shall appoint the members of the Council on the basis of representation provided for in § 1209.30, except that no more than one member may be appointed to the initial Council from nominations submitted by any one producer or importer. In any subsequent year in which an appointment to the Council is to be made, no member shall be appointed to the Council from nominations submitted when such nominee is employed by any one producer or importer if a current member of the Council is also employed by that producer or importer.

§ 1209.34 Term of office.

(a) The members of the Council shall serve for terms of three years, except that the members appointed to the initial Council shall serve, proportionately, for terms of one, two, and three years.

(b) Members of the initial Council shall be designated for, and shall serve, terms as follows: One producer member each from regions 1, 2 and 3 shall be appointed for an initial term of one year; one producer member each from regions 1, 2, and 3 shall be appointed for an initial term of two years; and one producer member each from regions 2, 3, and 4 shall be appointed for an initial term of three years. Because current imports of fresh mushrooms are less than 35,000,000 pounds, the minimum established for representation on the Council, importers will not initially have a member appointed to the Council.

(c)(1) Except with respect to terms of office of the initial Council, the term of office for each member of the Council shall begin on January 1 or such other date that may be approved by the Secretary.

(2) The term of office for the initial Council shall begin immediately following appointment by the Secretary, except that time in the interim period from appointment until the following January 1, or other date that is the generally applicable beginning date for terms under paragraph (c)(1) of this section approved by the Secretary, shall not count toward the initial term of office.

(d) Council members shall serve during the term of office for which they are appointed and have qualified, and until their successors are appointed and have qualified.

(e)(1) No member shall serve more than two successive three-year terms, except as provided in paragraph (e)(2)(ii) of this section.

(2)(i) Those members serving initial terms of two or three years may serve one successive three-year term.

(ii) Those members serving initial terms of one year may serve two successive three-year terms.

§ 1209.35 Vacancies.

(a) To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member of the Council, the Secretary may appoint a successor from the most recent nominations submitted for open positions on the Council assigned to the region that the vacant position represents, or the Secretary may obtain nominees to fill such vacancy in such manner as the Secretary, by regulation, deems appropriate. Each such successor appointment shall be for the remainder of the term vacated. A vacancy will not be required to be filled if the unexpired term is less than six months.

(b)(1) No successor appointed to a vacated term of office shall serve more than two successive three-year terms on the Council, except as provided in paragraph (b)(2)(ii) of this section.

(2)(i) Any successor serving longer than one year may serve one successive three-year term.

(ii) Any successor serving one year or less may serve two successive three-year terms.

(c) If a member of the Council consistently refuses to perform the duties of a member of the Council, or if a member of the Council is known to be engaged in acts of dishonesty or willful misconduct, the Council may recommend to the Secretary that the member be removed from office. If the Secretary finds the recommendation of the Council shows adequate cause, the Secretary shall remove such member from office. Further, without recommendation of the Council, a member may be removed by the Secretary upon showing of adequate cause, including the failure by a member to submit reports or remit assessments required under this part, if the Secretary determines that such member's continued service would be detrimental to the achievement of the purposes of the Act.

§ 1209.36 Procedure.

(a) At a properly convened meeting of the Council, a majority of the members shall constitute a quorum.

(b) Each member of the Council will be entitled to one vote on any matter put to the Council, and the motion will carry if supported by a simple majority of those voting. At assembled meetings of the Council, all votes will be cast in person.

(c) In lieu of voting at a properly convened meeting and, when in the opinion of the chairperson of the Council such action is considered necessary, the Council may take action upon the concurring votes of a majority of its members by mail, telephone, or telegraph, or any other such means of communication, but any such action shall be confirmed promptly in writing. In that event, all members must be notified and provided the opportunity to vote. Any action so taken shall have the same force and effect as though such action had been taken at a properly convened meeting of the Council. All votes shall be recorded in Council minutes.

(d) Meetings of the Council may be conducted by electronic communications, provided that each member is given prior notice of the meeting and has an opportunity to be present either physically or by electronic connection.

(e) The organization of the Council and the procedures for conducting meetings of the Council shall be in accordance with its bylaws, which shall be established by the Council and approved by the Secretary.

§ 1209.37 Compensation and reimbursement.

The members of the Council shall serve without compensation but shall be reimbursed for necessary and reasonable expenses. including a reasonable per diem allowance, as approved by the Council and the Secretary, incurred by them in the performance of their responsibilities under this subpart.

§ 1209.38 Powers.

The Council shall have the following powers:

(a) To receive and evaluate or, on its own initiative, develop and budget for proposed programs, plans, or projects to promote the use of mushrooms, as well as proposed programs, plans, or projects for research, consumer information, or industry information, and to make recommendations to the Secretary regarding such proposals;

(b) To administer the provisions of this subpart in accordance with its terms and provisions;

(c) To appoint or employ such individuals as it may deem necessary, define the duties, and determine the compensation of each;

(d) To recommend to the Secretary rules and regulations to effectuate the terms and provisions of this subpart;

(e) To receive, investigate, and report to the Secretary for action complaints of violations of the provisions of this subpart;

(f) To disseminate information to producers, importers, first handlers, or industry organizations through programs or by direct contact using the public postal system or other systems;

(g) To select committees and subcommittees of Council members, including an executive committee whose powers and membership shall be determined by the Council, subject to the approval of the Secretary, and to adopt such bylaws and other rules for the conduct of its business as it may deem advisable;

(h) To establish committees which may include individuals other than Council members, and pay the necessary and reasonable expenses and fees of the members of such committees;

(i) To recommend to the Secretary amendments to this subpart;

(j) With the approval of the Secretary, to enter into contracts or agreements with national, regional, or State mushroom producer organizations, or other organizations or entities, for the development and conduct of programs, plans, or projects authorized under § 1209.40 and with such producer organizations for other services necessary for the implementation of this subpart, and for the payment of the cost thereof with funds collected and received pursuant to this subpart. Any such contract or agreement shall provide that:

(1) The contractor or agreeing party shall develop and submit to the Council a program, plan, or project together with a budget or budgets that shall show the estimated cost to be incurred for such program, plan, or project;

(2) Any such program, plan, or project shall become effective upon approval of the Secretary;

(3) The contracting or agreeing party shall keep accurate records of all of its transactions and make periodic reports to the Council of activities conducted, submit accountings for funds received and expended, and make such other reports as the Secretary or the Council may require; and the Secretary may audit the records of the contracting or agreeing party periodically; and

(4) Any subcontractor who enters into a contract with a Council contractor and who receives or otherwise uses funds allocated by the Council shall be subject to the provisions of this part, and records of the subcontractor applicable to any contract entered into by the Council shall be subject to audit by the Secretary;

(k) With the approval of the Secretary, to invest, pending disbursement pursuant to a program, plan, or project, funds collected through assessments provided for in § 1209.51, and any other funds received by the Council in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States;

(l) Such other powers as may be approved by the Secretary; and

(m) To develop and propose to the Secretary voluntary quality and grade standards for mushrooms, if the Council determines that such quality and grade standards would benefit the promotion of mushrooms.

§ 1209.39 Duties.

The Council shall have the following duties:

(a) To meet not less than annually, and to organize and select from among its members a chairperson and such other officers as may be necessary;

(b) To evaluate or develop, and submit to the Secretary for approval, promotion, research, consumer information, and industry information programs, plans, or projects;

(c) To prepare for each fiscal year, and submit to the Secretary for approval at least 60 days prior to the beginning of each fiscal year, a budget of its anticipated expenses and disbursements in the administration of this subpart, as provided in § 1209.50.

(d) To maintain such books and records, which shall be available to the Secretary for inspection and audit, and to prepare and submit such reports from time to time to the Secretary, as the Secretary may prescribe, and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(e) To prepare and make public, at least annually, a report of its activities carried out, and an accounting for funds received and expended;

(f) To cause its books to be audited by an independent certified public accountant at least once each fiscal year and at such other times as the Secretary may request, and submit a copy of each such audit to the Secretary;

(g) To give the Secretary the same notice of meetings of the Council as is given to members in order that the Secretary, or a representative of the Secretary, may attend such meetings;

(h) To submit to the Secretary such information as may be requested pursuant to this subpart;

(i) To keep minutes, books, and records that clearly reflect all the acts and transactions of the Council. Minutes of each Council meeting shall be promptly reported to the Secretary;

(j) To act as intermediary between the Secretary and any producer or importer;

(k) To follow the Department's equal opportunity/civil rights policies; and

(l) To work to achieve an effective, continuous, and coordinated program of promotion, research, consumer information, and industry information designed to strengthen the mushroom industry's position in the marketplace, maintain and expand existing markets and uses for mushrooms, develop new markets and uses for mushrooms, and to carry out programs, plans, and projects designed to provide maximum benefits to the mushroom industry.

Promotion, Research, Consumer Information, and Industry Information

§ 1209.40 Programs, plans, and projects.

(a) The Council shall receive and evaluate, or on its own initiative develop, and submit to the Secretary for approval any program, plan, or project authorized under this subpart. Such programs, plans, or projects shall provide for:

(1) The establishment, issuance, effectuation, and administration of appropriate programs for promotion, research, consumer information, and industry information with respect to mushrooms; and

(2) The establishment and conduct of research and studies with respect to the sale, distribution, marketing, and use of mushrooms and mushroom products, and the creation of new products thereof, to the end that marketing and use of mushrooms may be encouraged, expanded, improved or made more acceptable. However, as prescribed by the Act, nothing in this subpart may be construed to authorize mandatory requirements for quality control, grade standards, supply management programs, or other programs that would control production or otherwise limit the right of individual producers to produce mushrooms.

(b) No program, plan, or project shall be implemented prior to its approval by the Secretary. Once a program, plan, or project is so approved, the Council shall take appropriate steps to implement it.

(c) Each program, plan, or project implemented under this subpart shall be reviewed or evaluated periodically by the Council to ensure that it contributes to an effective program of promotion, research, consumer information, or industry information. If it is found by the Council that any such program, plan, or project does not contribute to an effective program of promotion,

research, consumer information, or industry information, then the Council shall terminate such program, plan, or project.

(d) In carrying out any program, plan, or project, no reference to a brand name, trade name, or State or regional identification of any mushrooms or mushroom product shall be made. In addition, no program, plan, or project shall make use of unfair or deceptive acts or practices with respect to the quality, value, or use of any competing product.

Expenses and Assessments

§ 1209.50 Budget and Expenses.

(a)(1) At least 60 days prior to the beginning of each fiscal year, and as may be necessary thereafter, the Council shall prepare and submit to the Secretary a budget for the fiscal year covering its anticipated expenses and disbursements in administering this subpart. Each such budget shall include:

(i) A statement of objectives and strategy for each program, plan. or project;

(ii) A summary of anticipated revenue, with comparative data for at least one preceding year;

(iii) A summary of proposed expenditures for each program, plan, or project; and

(iv) Staff and administrative expense breakdowns, with comparative data for at least one preceding year.

Each budget shall include a rate of assessment for such fiscal year calculated, subject to § 1209.51(b), to provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in paragraph (f) of this section. The Council may change such rate at any time, as provided in § 1209.51(b)(5).

(2)(i) Subject to paragraph (a)(2)(ii) of this section, any amendment or addition to an approved budget must be approved by the Secretary, including shifting of funds from one program, plan, or project to another.

(ii) Shifts of funds which do not cause an increase in the Council's approved budget and which are consistent with governing bylaws need not have prior approval by the Secretary.

(b) The Council is authorized to incur such expenses, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Council for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from funds received by the Council.

(c) The Council may accept voluntary contributions, but these shall only be used to pay expenses incurred in the conduct of programs, plans, and projects. Such contributions shall be free from any encumbrance by the donor and the Council shall retain complete control of their use. The donor may recommend that the whole or a portion of the contribution be applied to an ongoing program, plan, or project.

(d) The Council shall reimburse the Secretary, from funds received by the Council, for administrative costs incurred by the Secretary in implementing and administering this subpart, except for the salaries of Department employees incurred in conducting referenda.

(e) The Council may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in any reserve so established, except that the funds in the reserve shall not exceed approximately one fiscal year's expenses. Such reserve funds may be used to defray any expenses authorized under this subpart.

(f) With the approval of the Secretary, the Council may borrow money for the payment of administrative expenses, subject to the same fiscal, budget, and audit controls as other funds of the Council.

§ 1209.51 Assessments.

(a) Any first handler initially purchasing, or otherwise placing into the current of commerce, mushrooms produced in the United States shall, in the manner as prescribed by the Council and approved by the Secretary, collect an assessment based upon the number of pounds of mushrooms marketed in the United States for the account of the producer, and remit the assessment to the Council.

(b) The rate of assessment effective during any fiscal year shall be the rate specified in the budget for such fiscal year approved by the Secretary, except that:

(1) The rate of assessment during the first year this subpart is in effect shall be one-quarter of one cent per pound of mushrooms marketed, or the equivalent thereof.

(2) The rate of assessment during the second year this subpart is in effect shall not exceed one-third of one cent per pound of mushrooms marketed, or the equivalent thereof.

(3) The rate of assessment during the third year this subpart is in effect shall not exceed one-half of one cent per pound of mushrooms marketed, or the equivalent thereof.

(4) The rate of assessment during each of the fourth and following years this subpart is in effect shall not exceed one cent per pound of mushrooms marketed, or the equivalent thereof.

(5) The Council may change the rate of assessment for a fiscal year at any time with the approval of the Secretary as necessary to reflect changed circumstances, except that any such changed rate may not exceed the level of assessment specified in paragraphs (b)(1), (2), (3), or (4) of this section, whichever is applicable.

(c) Any person marketing mushrooms of that person's own production to consumers in the United States, either directly or through retail or wholesale outlets, shall be considered a first handler and shall remit to the Council an assessment on such mushrooms at the rate per-pound then in effect, and in such form and manner prescribed by the Council.

(d) Only one assessment shall be paid on each unit of mushrooms marketed.

(e)(1) Each importer of mushrooms shall pay an assessment to the Council on mushrooms imported for marketing in the United States, through the U.S. Customs Service or in such other manner as may be established by rules and regulations approved by the Secretary.

(2) The per-pound assessment rate for imported mushrooms shall be the same as the rate provided for mushrooms produced in the United States.

(3) The import assessment shall be uniformly applied to all imported mushrooms that are identified by the number, 0709.51.0000, in the Harmonized Tariff Schedule of the United States or any other number used to identify fresh mushrooms.

(4) The assessments due on imported mushrooms shall be paid when the mushrooms are entered or withdrawn for consumption in the United States, or at such other time as may be established by rules and regulations prescribed by the Council and approved by the Secretary and under such procedures as are provided in such rules and regulations.

(f) The collection of assessments under this section shall commence on all mushrooms marketed or imported in the United States on or after the date established by the Secretary, and shall continue until terminated by the Secretary. If the Council is not constituted on the date the first assessments are to be collected, the Secretary shall have the authority to receive the assessments on behalf of the Council and to hold such assessments until the Council is constituted, then remit such assessments to the Council.

(g)(1) Each person responsible for remitting assessments under paragraphs (a), (c), or (e) of this section shall remit the amounts due from assessments to the Council on a monthly basis no later than the fifteenth day of the month following the month in which the mushrooms were marketed, in such manner as prescribed by the Council.

(2)(i) A late payment charge shall be imposed on any person that fails to remit to the Council the total amount for which the person is liable on or before the payment due date established under this section. The amount of the late payment charge shall be prescribed in rules and regulations as approved by the Secretary.

(ii) An additional charge shall be imposed on any person subject to a late payment charge, in the form of interest on the outstanding portion of any amount for which the person is liable. The rate of interest shall be prescribed in rules and regulations as approved by the Secretary.

(3) For the purpose of this subsection, any assessment that is determined to be owing at a date later than the date it should have been due and owing under the rules and regulations prescribed under this part because of a person's failure to submit a report to the Council when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

(h) The Council, with the approval of the Secretary, may enter into agreements authorizing other organizations to collect assessments in its behalf. Any such organization shall be required to maintain the confidentiality of such information as is required by the Council for collection purposes. Any reimbursement by the Council for such services shall be based on reasonable charges for services rendered.

(i) The Council is hereby authorized to accept advance payment of assessments for the fiscal year by any person, that shall be credited toward any amount for which such person may become liable. The Council shall not be obligated to pay interest on any advance payment.

§ 1209.52 Exemption from assessment.

(a) Persons that produce or import less than 500,000 pounds of mushrooms annually shall be exempt from the assessment.

(b) To claim such exemption, such persons shall annually submit an application to the Council, on a form provided by the Council, stating that the person's production or importation of mushrooms shall not exceed 500,000 pounds for the year for which the exemption is claimed.

(c) Mushrooms produced in the United States that are exported are exempt from assessment and are subject to such safeguards as prescribed in rules and regulations to prevent improper use of this exemption.

(d) Imported mushrooms used for processing are exempt from assessment and are subject to such safeguards as prescribed in rules and regulations to prevent improper use of this exemption.

(e) Should an exempted person's production or volume of imports exceed 500,000 pounds of mushrooms during any year in which exemption is granted, such person shall be responsible for the payment of assessments on all mushrooms produced or imported during such year.

§ 1209.53 Influencing governmental action.

No funds received by the Council under this subpart shall in any manner be used for the purpose of influencing legislation or governmental policy or action, except to develop and recommend to the Secretary amendments to this subpart, and to submit to the Secretary proposed voluntary grade and quality standards for mushrooms.

Reports, Books and Records

§ 1209.60 Reports.

(a) Each producer marketing mushrooms of that person's own production directly to consumers, and each first handler responsible for the collection of assessments under § 1209.51(a) shall be required to report monthly to the Council, on a form provided by the Council, such information as may be required under this subpart or any rules and regulations issued thereunder. Such information shall include, but not be limited to, the following:

(1) The first handler's name, address, and telephone number;

(2) Date of report, which is also the date of payment to the Council;

(3) Period covered by the report;

(4) The number of pounds of mushrooms purchased, initially transferred, or that in any other manner are subject to the collection of assessments, and a copy of a certificate of exemption, claiming exemption under § 1209.52 from those who claim such exemptions;

(5) The amount of assessments remitted; and

(6) The basis, if necessary, to show why the remittance is less than the number of pounds of mushrooms determined under paragraph (a)(4) of this section multiplied by the applicable assessment rate.

(b) If determined necessary by the Council and approved by the Secretary, each importer shall file with the Council periodic reports, on a form provided by the Council, containing at least the following information:

(1) The importer's name, address, and telephone number;

(2) The quantity of mushrooms entered or withdrawn for consumption in the United States during the period covered by the report; and

(3) The amount of assessments paid to the U.S. Customs Service at the time of such entry or withdrawal.

(c) The words *final report* shall be shown on the last report at the end of each fiscal year.

§ 1209.61 Books and records.

Each person who is subject to this subpart shall maintain and make available for inspection by the Council or the Secretary such books and records as are deemed necessary by the Council, with the approval of the Secretary, to carry out the provisions of this subpart and any rules and regulations issued hereunder, including such books and records as are necessary to verify any reports required. Such books and records shall be retained for at least two years beyond the fiscal year of their applicability.

§ 1209.62 Confidential treatment.

(a) All information obtained from books, records, or reports under the Act, this subpart, and the rules and regulations issued thereunder shall be kept confidential by all persons, including all employees and former employees of the Council, all officers and employees and former officers and employees of the Department, and all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information, and shall not be available to Council members or any other producers or importers. Only those persons having a specific need for such information to effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit:

(1) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(2) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of this subpart violated by such person.

(b) Any disclosure of confidential information by any employee of the Council, except as required or authorized by law, shall be considered willful misconduct.

Miscellaneous

§ 1209.70 Right of the Secretary.

All fiscal matters, programs, plans, or projects, rules or regulations, reports, or other substantive actions proposed and prepared by the Council shall be submitted to the Secretary for approval.

§ 1209.71 Suspension or termination.

(a) Whenever the Secretary finds that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, the Secretary shall terminate or suspend the operation of this subpart or such provision thereof.

(b)(1) Five years after the date on which this subpart becomes effective, the Secretary shall conduct a referendum among producers and importers to determine whether they favor continuation, termination, or suspension of this subpart.

(2) Effective beginning three years after the date on which this subpart becomes effective, the Secretary, on request of a representative group comprising 30 percent or more of the number of mushroom producers and importers, may conduct a referendum to determine whether producers and importers favor termination or suspension of this subpart.

(3) Whenever the Secretary determines that suspension or termination of this subpart is favored by a majority of the mushroom producers and importers voting in a referendum under paragraphs (b) (1) or (2) of this section who, during a representative period determined by the Secretary, have been engaged in producing and importing mushrooms and who, on average, annually produced and imported more than 50 percent of the volume of mushrooms produced and imported by all those producers and importers voting in the referendum, the Secretary shall:

(i) Suspend or terminate, as appropriate, collection of assessments within six months after making such determination; and

(ii) Suspend or terminate, as appropriate, all activities under this subpart in an orderly manner as soon as practicable.

(4) Referenda conducted under this subsection shall be conducted in such manner as the Secretary may prescribe.

§ 1209.72 Proceedings after termination.

(a) Upon the termination of this subpart, the Council shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Council. Such persons, upon designation by the Secretary, shall become trustees of all the funds and property owned, in the possession of, or under the control of the Council, including any claims unpaid or property not delivered, or any other claim existing at the time of such termination.

(b) The trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Council under any contract or agreement entered into by it under this subpart;

(3) From time to time account for all receipts and disbursements, and deliver all property on hand, together with all books and records of the Council and of the trustees, to such persons as the Secretary may direct; and

(4) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the Council or the trustees under this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered under this subpart shall be subject to the same obligations imposed upon the Council and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be used, to the extent practicable, in the interest of continuing one or more of the promotion, research, consumer information, or industry information programs, plans, or projects authorized under this subpart.

§ 1209.73 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any rule and regulation issued under this subpart, or the issuance of any amendment to such provisions, shall not:

(a) Affect or waive any right, duty, obligation, or liability that shall have arisen or may hereafter arise in connection with any provision of this subpart or any such rules or regulations;

(b) Release or extinguish any violation of this subpart or any such rules or regulations; or

(c) Affect or impair any rights or remedies of the United States, the Secretary, or any person with respect to any such violation.

§ 1209.74 Personal liability.

No member or employee of the Council shall be held personally responsible, either individually or jointly, in any way whatsoever, to any person for errors in judgement, mistakes, or other acts of either commission or omission of such member or employee under this subpart, except for acts of dishonesty or willful misconduct.

§ 1209.75 Patents, copyrights, inventions, publications, and product formulations.

Any patents, copyrights, inventions, publications, or product formulations developed through the use of funds received by the Council under this subpart shall be the property of the United States Government as represented by the Council and shall, along with any rents, royalties, residual payments, or other income from the rental, sale, leasing, franchising, or other uses of such patents, copyrights, inventions, publications, or product formulations inure to the benefit of the Council and be considered income subject to the same fiscal, budget, and audit controls as other funds of the Council. Upon termination of this subpart, § 1209.72 shall apply to determine disposition of all such property.

§ 1209.76 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Council or by any interested person affected by the provisions of the Act, including the Secretary.

§ 1209.77 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

Proposed Provisions to the Mushroom Promotion, Research, and Consumer Information Order Submitted by United Foods, Inc.

United Foods, Inc. proposed the following specific provisions for inclusion in any promotion and research order:

For Inclusion in § 1209.14

Producer—*Producer* means any person engaged in the production of mushrooms who owns or shares the ownership and risk of loss of such mushrooms and who produces on average over 500,000 pounds of mushrooms per year.

For Inclusion in § 1209.18

Research—*Research* means any type of study to advance the image, desirability, production, product development, quality or nutritional value of mushrooms except that such term shall not include any study of methods or programs to control the production of mushrooms.

For Inclusion in § 1209.38(j)

The Council shall not contract with any person who is a producer or importer for the purpose of mushroom research, promotion, or advertising.

For Inclusion in § 1209.39

The Council shall submit to the Secretary and all contributing producers and importers, a report at the end of each fiscal year which includes an independent audit of its books and records. The annual report to the Secretary and contributing producers and importers shall include the follow-up independent cost/benefit analysis of each completed program, plan or project.

For Inclusion in § 1209.40

The Council shall ensure that funds are expended by the Council into mushroom market areas in reasonable proportion to the assessments collected from producers in those areas.

For Inclusion in § 1209.40

Prior to submitting to the Secretary for approval, any program, plan or project for mushroom promotion, research, advertising, or information, the Council shall cause to be conducted an independent cost/benefit analysis of such contract. The result of such analysis shall be included with the submission to the Secretary. The Secretary shall not approve any such proposed program, plan or project unless in the Secretary's opinion, the benefits will substantially outweigh the costs. The Council shall have conducted an independent, annual follow-up cost/benefit analysis of each on-going or completed program, plan or project for mushroom promotion, research, advertising or information.

For Inclusion in § 1209.40(a)

Nothing in this subtitle may be construed to provide for the control of production or otherwise limit the right of individual producers to produce mushrooms.

For Inclusion in § 1209.40(a)

The Mushroom Council is prohibited from using any funds collected under this Act or otherwise collected to directly or indirectly develop, study, evaluate, hold meetings, prepare reports or publish documents or articles regarding the control of mushroom production.

For Inclusion in § 1209.50

No funds collected under this Act shall be used to reimburse, defray, or make payment of costs incurred in developing, drafting, studying, lobbying on or promoting the legislation authorizing this order. Such prohibition includes reimbursement, defrayment or payment to industry organizations, individual producers or companies, lawyers, law firms or consultants.

For Inclusion in § 1209.53

The Mushroom Council is prohibited from using any funds collected under this Act or otherwise collected to directly or indirectly lobby on behalf of, advocate, promote or support any program to control the production of mushrooms.

For Inclusion in § 1209.60

Producer status shall be verified annually by requiring all persons who produce mushrooms to submit their level of production to the Council. Such reports shall be certified by an independent auditor.

For Inclusion in § 1209.60

The Secretary shall require that all persons producing or importing mushrooms in the United States certify through an independent auditor and report to the Council and the Secretary the amount of mushrooms produced or imported annually in order that proper assessments be made. Persons who produce or import less than 500,000 pounds annually shall also be required to certify through an independent auditor and report to the Council and the Secretary their level of production or importation in order to justify their exemption from assessments.

Dated: September 30, 1991.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 91–23965 Filed 10–3–91; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–NM–157–AD]

Airworthiness Directives; SAAB-Scania Models SF–340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain SAAB-Scania Models SF–340A and SAAB 340B series airplanes, which would require replacement of the lavatory circuit breaker and accomplishment of an operational test. This proposal is prompted by a report that the wire to the lavatory can overheat when there is a failure in the lavatory electrical system. This condition, if not corrected, could result in a possible wire overload and resultant smoke and/or fire in the cabin.

DATES: Comments must be received no later than November 14, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 91–NM–157–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from SAAB-Scania AB, Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM–113; telephone (206) 227–2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications

should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91–NM–157–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority of Sweden, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain SAAB-Scania Models SF–340A and SAAB 340B series airplanes. An internal review by the manufacturer has revealed that the wire to the lavatory can overheat when there is a failure in the lavatory electrical system. This condition, if not corrected, could result in a possible wire overload and resultant smoke and/or fire in the cabin.

SAAB has issued Service Bulletin 340–25–181, dated March 7, 1991, which describes procedures for replacement of the lavatory circuit breaker and accomplishment of an operational test. The LFV has classified this service bulletin as mandatory, and has issued Swedish Airworthiness Directive 1–045 addressing this subject.

This airplane model is manufactured in Sweden and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require replacement of the lavatory circuit breaker and accomplishment of an operational test in accordance with the service bulletin previously described.

It is estimated that 121 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. The estimated cost for required parts is $50 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $12,705.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Saab-Scania: Docket No. 91–NM–157–AD.

Applicability: Model SF–340A series airplanes, serial numbers 004 through 159; and Model SAAB 340B, serial numbers 160 through 169, and 171 through 219; equipped with a forward or aft lavatory; certificated in any category.

Compliance: Required as indicated, unless previously accomplished. To prevent a possible wire overload and resultant smoke and/or fire in the cabin, accomplish the following:

(a) Within 3 months after the effective date of this AD, replace the lavatory circuit breaker, IMG (10A size), with circuit breaker, IMG (7.5A size), and perform an operational test, in accordance with SAAB Service Bulletin 340–25–181, dated March 7, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to SAAB-Scania AB, Product Support, S–581.88, Linköping, Sweden. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on September 13, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–23981 Filed 10–3–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–139–AD]

Airworthiness Directives; SAAB-Scania Model SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain SAAB-Scania Model SAAB 340B series airplanes, which would require a one-time visual inspection of the inner-wing fuel tanks to detect foreign objects, and removal of foreign objects, if found. This proposal is prompted by a recent report of extensive wing damage due to overpressurization during refueling caused by blockage of the ventline between the inner and outer fuel cells. This condition, if not

corrected, could result in reduced structural integrity of the wings.

DATES: Comments must be received no later than November 14, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 91–NM–139–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from SAAB-Scania AB, Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM–113; telephone (206) 227–2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91–NM–139–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority of Sweden, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain SAAB-Scania Model SAAB 340B series airplanes. There has been a recent report of extensive damage found on the inner integral fuel cell of the left wing which occurred during pressure refueling of the airplane. A cubical shaped piece of foam found in the cell had blocked the ventline between the inner and outer fuel cells, causing overpressurization and deformation of the ribs and wing skin. The foam appeared to have been left in the wing tank during production. This condition, if not corrected, could result in reduced structural integrity of the wings.

SAAB has issued Service Bulletin 340–28–013, dated March 14, 1991, which describes procedures to perform a one-time visual inspection of the inner-wing fuel tanks to detect foreign objects, and removal of foreign objects, if found. The LFV has classified this service bulletin as mandatory, and has issued Swedish Airworthiness Directive SAD 1–046 addressing this subject.

This airplane model is manufactured in Sweden and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require a one-time visual inspection of the inner-wing fuel tanks to detect foreign objects, a reporting of the findings as a result of the inspection, and removal of foreign objects, if found, in accordance with the service bulletin previously described. This AD would also require repetitive inspections of the inner-wing fuel tanks.

It is estimated that 32 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,800.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

SAAB-Scania: Docket No. 91–NM–139–AD.

Applicability: Model SAAB 340B series airplanes, Serial Numbers 160 through 226, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent reduced structural integrity of the wings, accomplish the following:

(a) Within 250 hours time-in-service after the effective date of this AD, perform a visual inspection of the inner-wing fuel tanks for foreign objects that could block or restrict the flow of fuel between the outer and inner fuel tanks, in accordance with SAAB Service Bulletin 340–28–013, dated March 14, 1991.

(b) If foreign objects are found as a result of the inspection required by paragraph (a) of this AD, prior to further flight, remove the foreign objects; submit a report of such findings to SAAB Aircraft Product Support, in accordance with SAAB Service Bulletin 340–28–013, dated March 14, 1991; and perform additional inspections in a manner approved by the Manager, Standardization Branch, FAA, Transport Airplane Directorate. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to SAAB-Scania AB, Product Support, S–581.88, Linköping, Sweden. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on September 13, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–23980 Filed 10–3–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–165–AD]

Airworthiness Directives; Aerospatiale Model ATR42–300 and ATR42–320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42–300 and ATR42–320 series airplanes, which would require a one-time inspection of the main landing gear (MLG) fastener holes to detect fatigue cracks, and repair, if necessary; the installation of certain reinforcement fittings on certain structural components; and cold working of certain fastener holes. This proposal is prompted by fatigue testing by the manufacturer which has identified fatigue damage in the landing gear bay area in line with Frame 25 and Stringer 15. This condition, if not corrected, could result in the collapse of the MLG.

DATES: Comments must be received no later than November 12, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 91–NM–165–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Woodford Boyce, Standardization Branch, ANM–113; telephone (206) 227–2137. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91–NM–165–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Aerospatiale Model ATR42–300 and ATR42–320 series airplanes. Results of fatigue testing by the manufacturer have identified fatigue damage in the landing gear bay area in line with Frame 25 and Stringer 15. Fatigue damage, such as cracking, if not detected and corrected, could result in the collapse of the main landing gear.

Aerospatiale has issued Service Bulletin ATR42–53–0043, Revision 4, dated April 30, 1991, which describes procedures to perform installation of new machined reinforcement fittings on the MLG; a one-time eddy current inspection of the MLG fastener holes to detect cracks, and repair of cracks; installation of doublers on Stringer 15 at Frame 25 on the reinforcement plate; and cold working of the MLG fastener holes. The French DGAC has classified this service bulletin as mandatory, and has issued Airworthiness Directive 90–163–031(B) addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require installation of new machined reinforcement fittings on the MLG; a one-time eddy current inspection of the MLG fastener holes to detect fatigue cracks, and repair, if necessary; installation of doublers on Stringer 15 at Frame 25 on the reinforcement plate; and cold working of the MLG fastener holes. These actions would be required to be performed in accordance with the service bulletin previously described.

It is estimated that 77 airplanes of U.S. registry would be affected by this AD, that it would take approximately 82 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. The required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $347,270.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive

Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aerospatiale: Docket No. 91–NM–165–AD.

Applicability: Model ATR42–300 and ATR42–320 series airplanes; as listed in Aerospatiale Service Bulletin ATR42–53–0043, Revision 4, dated April 30, 1991; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent collapse of the main landing gear, accomplish the following:

(a) Prior to the accumulation of 10,000 landings since new, or within 30 days after the effective date of this AD, whichever occurs later, accomplish the following in accordance with Aerospatiale Service Bulletin ATR42–53–0043, Revision 4, dated April 30, 1991:

(1) Install a new machined reinforcement fitting (Modification 1281) on the left and right sides of the main landing gear (MLG) in accordance with the service bulletin.

(2) Perform a one-time eddy current inspection of the fastener holes on the left and right sides of the MLG to detect fatigue cracks in accordance with the service bulletin. If any cracks are found, prior to further flight, repair in accordance with the service bulletin.

(3) Install doublers on Stringer 15 at Frame 25 on the reinforcement plate in accordance with the service bulletin.

(4) Perform cold working procedures of two fastener holes on the left and right sides of the MLG in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on September 12, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–23977 Filed 10–3–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–153–AD]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which would require a visual inspection or functional test of the fuel shutoff valves (spar valves) and fuel crossfeed valve; and, if necessary, removal and re-installation of the valve. This proposal is prompted by a report of a fuel crossfeed valve that was incorrectly installed during factory assembly and would not close fully. This condition, if not corrected, would result in a valve which could not close fully, thereby allowing fuel to flow to the nacelle during an engine fire.

DATES: Comments must be received no later than November 14, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 91–NM–153–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey E. Duven, Seattle Aircraft Certification Office, Propulsion Branch, ANM–140S; telephone (206) 227–2688. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91–NM–153–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

There has been a report of a fuel crossfeed valve on a Boeing Model 757 series airplane that was installed upside-down during factory assembly. This resulted in a crossfeed valve which could not close fully, although it would indicate that it was closed when selected "closed." This condition was discovered by an operator when, during flight, fuel transferred from the left fuel tank to the right fuel tank, although the crossfeed valve indicated "closed." During the investigation of this event, it

was also determined that if a fuel shutoff valve on a Boeing Model 757 series airplane was installed upside-down, it too could not close fully, although it would indicate "closed." The engine shutoff valve in the engine fuel control also operates when the fuel shutoff valve (spar valve) is selected open or closed. Therefore, an incorrectly installed fuel shutoff valve would not normally be discovered until it was required to shut off the flow of fuel, for example, because of a leak in an engine fuel line. Existing factory testing would not determine if a fuel crossfeed or shutoff valve were installed upside-down. This condition, if not corrected, would result in a valve which could not close fully, thereby allowing fuel to flow to the nacelle during an engine fire.

The FAA has reviewed and approved Boeing Alert Service Letter 757–SL–28–8–A, dated June 5, 1991, which describes procedures for a visual inspection and a functional test to determine if the fuel crossfeed valve and both the left and right fuel shutoff valves are installed correctly; and provides instructions for the removal and correct re-installation of each incorrectly installed valve.

Since this condition is likely to exist on other airplanes of this same type design, an AD is proposed which would require a visual inspection or a functional test to determine if the valves are correctly installed and, if necessary, the removal and re-installation of the valve(s), in accordance with the service letter previously described.

There are approximately 352 Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 129 airplanes of U.S. registry would be affected by this AD, that it would take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $42,570.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket No. 91–NM–153–AD.

Applicability: Model 757 series airplanes, as listed in Boeing Service Letter 757–SL–28–8–A, dated June 5, 1991, certificated in any category.

Compliance: Required within the next 3,000 hours time-in-service after the effective date of this AD, unless previously accomplished.

To assure that the fuel crossfeed valve and fuel shutoff valves close fully, accomplish the following:

(a) Perform a visual inspection or a functional test of the fuel crossfeed valve and fuel shutoff valves to determine if the valves are correctly installed, in accordance with Boeing Service Letter 757–SL–28–8–A, dated June 5, 1991. If an incorrectly installed valve is found, prior to further flight, remove and re-install it correctly, in accordance with the service letter.

(b) Within 30 days after accomplishing the inspection or functional test required by paragraph (a) of this AD, submit a report of the inspection or test findings from which it is determined that the fuel crossfeed valve or fuel shutoff valves were incorrectly installed, to: Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055; rapid fax: (206) 227–1181; telex 756366. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provision of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on September 13, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–23978 Filed 10–3–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–181–AD]

Airworthiness Directives; General Dynamics Convair Model 340, 440, and C–131 (Military) Series Airplanes, Including Those Modified for Turbopropeller Power

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to all General Dynamics Model 340, 440 and C–131 (Military) series airplanes, which currently requires structural inspections, and repair or replacement, as necessary to ensure continued airworthiness. This action would require more detailed inspections, add areas to be inspected, require the use of improved inspection methods and revise certain compliance times. This proposal is prompted by the analysis of new data submitted in accordance with the existing AD. This condition, if not corrected, could result in the compromise of the structural integrity of these airplanes.

DATES: Comments must be received no later than November 14, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention:

Airworthiness Rules Docket No. 91–NM 181–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from General Dynamics/Convair Division, Lindberg Field Plant, P.O. Box 85377, San Diego, California 92138, Attention: Derek Trusk. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue S.W., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–123L, FAA, Northwest Mountain Region, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach California 90806–2425; telephone (213) 988–5237.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91–NM–181–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On August 17, 1988, the FAA issued AD 88–22–06, Amendment 39–6006 (53 FR 41157, October 20, 1988), applicable to General Dynamics Model 340, 440, and C–131 series airplanes, to require structural inspections, and repair or replacement, as necessary to ensure continued airworthiness of these airplanes. Reports of inspection results are also required. That action was prompted by a structural evaluation which identified certain significant structural components to inspect for fatigue cracks as these airplanes reach and exceed the manufacturer's original economic design life. Fatigue cracks in these areas, if not detected in a timely manner and corrected, could compromise the structural integrity of these airplanes.

Since issuance of that AD, the manufacturer has received and analyzed reports of affected operators' inspection results and has identified additional structural components that must be inspected as part of the Supplemental Inspection Document (SID) program. Data received also indicate that improved or more detailed inspection methods should be used for certain currently-required inspections and that certain compliance times should be revised.

The FAA has reviewed and approved General Dynamics, Convair Division, "Supplemental Inspection Document (SID), Model 340/440," Report No. ZS–340–1000, Revision 1, dated April 15, 1991 (including Addenda I, II, and III). This revision adds more detailed inspections, additional inspection areas, and improved inspection methods to the original version of the SID; and revises certain recommended times for the accomplishment of various inspections and other actions. The intent of these changes to the original SID is to identify and correct problems associated with fatigue in a more timely manner.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede AD 88–22–06 with a new airworthiness directive that would require additional inspections, more detailed inspections, the use of improved inspection methods, and revised accomplishment schedules in accordance with the service bulletin previously described.

There are approximately 320 General Dynamics Model 340, 440, and C–131 (Military) series airplanes of the affected design in the worldwide fleet. It is estimated that 240 airplanes of U.S. registry and 25 U.S. operators would be affected by this AD. Incorporation of the Supplemental Inspection Document (SID) program into an operator's maintenance program, as originally required by AD 88–22–06, is estimated to necessitate 1,000 manhours per airplane to accomplish. The incorporation of additional inspection procedures of the proposed AD action would require approximately 50 additional manhours per aircraft, and 20 hours per operator to incorporate these inspections into the maintenance program. The average labor cost would be $55 per manhour. Based on these figures, the cost to U.S. operators to incorporate the SID program revisions is estimated to be $687,500; the total cost to U.S. operators to incorporate the SID is estimated to be $13,887,500.

The recurring inspection cost to the affected operators, as originally required by AD 88–22–06, is estimated to be 500 manhours per airplane per year at an average cost of $55 per manhour. There are no additional recurring inspection costs by this proposed AD action. Therefore, the total cost of recurring inspections is estimated to be $6,600,000.

Based on the above figures, the total cost impact of this AD is estimated to be $13,887,500 for the first year, and $6,600,000 for each year thereafter.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–6006 and by adding the following new airworthiness directive:

General Dynamics: Docket No. 91–NM–181–AD. Supersedes AD 88–22–06.

Applicability: Applies to Model 340, 440, and C–131 (Military) series airplanes, all serial numbers, certificated in any category, including those modified for turbo-propeller power.

Compliance: Required as indicated, unless previously accomplished. To ensure the continuing structural integrity of these airplanes, accomplish the following:

(a) Within one year after November 21, 1988 (the effective date of Amendment 39–6006, AD 88–22–06), incorporate a revision into the FAA-approved maintenance inspection program which provides for inspection of the Principal Structural Elements (PSE) defined in section 3 of General Dynamics, Convair Division, "Supplemental Inspection Document (SID), Model 340/440," Report No. ZS–340–1000, dated November 14, 1986; Addendum I, dated April 14, 1987; Addendum II, dated May 4, 1987; and Addendum III dated August 4, 1987. The non-destructive inspection techniques set forth in the SID provide acceptable methods for accomplishing the inspections required by this AD. All inspection results (negative or positive) must be reported to General Dynamics, in accordance with the instructions in the SID.

(b) Within six months after the effective date of this AD, incorporate a revision into the FAA-approved maintenance inspection program which provides for inspection of the Principle Structural Elements (PSE) defined in section 3 of General Dynamics, Convair Division, "Supplemental Inspection Document (SID), Model 340/440," Report No. ZS–340–1000, Revision 1, dated April 15, 1991; including Addenda I, II, and III, all dated April 15, 1991. The nondestructive inspection techniques set forth in the SID provide acceptable methods for accomplishing the inspections required by this AD. All inspection results (negative and positive) must be reported to General Dynamics, in accordance with the instruction in the SID.

(c) Cracked structure detected during the inspection required by paragraph (a) or (b) of this AD must be repaired or replaced, prior to further flight, in accordance with General Dynamics, Convair Division, "Supplemental Inspection Document (SID), Model 340/440," Report No. ZS–340–1000, dated November 14, 1986; or Revision 1, dated April 15, 1991.

(d) All of the information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(f) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may concur or comment and then send it to the Manager, Los Angeles ACO.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the General Dynamics/Convair Division, Lindberg Field Plant, P.O. Box 85377, San Diego, California 92138, Attention: Derek Trusk. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Renton, Washington, on September 13, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–23979 Filed 10–3–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–159–AD]

Airworthiness Directives; SAAB-Scania Model SF–340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain SAAB-Scania Model SF–340A and SAAB 340B series airplanes, which would require the disconnection of electrical power to the refuel/defuel panel lights. This proposal is prompted by reports of arcing and smoke emanating from the refuel/defuel panel during refueling. This condition, if not cornected, could result in a fire during the refueling process.

DATES: Comments must be received no later than November 12, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 91–NM–159–AD, 1601 Lind Avenue S.W., Renton, Washington 98055–4056.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM–113; telephone (206) 227–2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91–NM–159–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authorit of Sweden, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on ertain SAAB-Scania Model SF–340A and SAAB 340B series airplanes. The refueling staff recently reported arcing and smoke emanating from the refuel/defuel panel during refueling. During a fleet inspection, a number of panels were found with evidence of arcing. Investigation revealed that the lighted panels crack with age. Moisture collecting in the cracks then leads to shorting and the resultant arcing.

The refuel/defuel panel on these airplanes is located approximately four inches from the refueling receptacle. Residual fuel or vapors in the nozzle or receptacle may slop or be blown toward the panel. This condition, when combined with an arcing panel, could

result in a fire during the refueling process.

The LFV has issued Swedish Airworthiness Directive (SAD) No. 1–050, which describes procedures for disconnection of the lights in the refuel/defuel lighted front panel (P/N 7239160–813, colored black) on the refuel/defuel panel assembly. The FAA has been advised that a new refuel/defuel lighted front panel is currently being developed.

This airplane model is manufactured in Sweden and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require disconnection of the lights in the refuel/defuel lighted front panel (P/N 7239160–813, colored black) on the refuel/defuel panel assembly.

This is considered to be interim action until a new refuel/defuel lighted front panel is developed and available, at which time the FAA may consider further rulemaking.

It is estimated that 121 airplanes of U.S. registry would be affected by this AD, that it would take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $19,965.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

SAAB-Scania: Docket No. 91–NM–159–AD.

Applicability: Model SF–340A series airplanes, serial numbers 004 through 159; and SAAB 340B series airplanes, serial numbers 160 and subsequent, equipped with a lighted front panel (P/N 7239160–813) on the refuel/defuel panel assembly (P/N 7239160–502, –503, and –504); certificated in any category.

Compliance: Required as indicated, unless previously accomplished. To prevent a fire during the refueling process, accomplish the following:

(a) Within 30 days after the effective date of this AD, disconnect the lighting to the refuel/defuel panel lights as follows:

(1) Remove the refuel/defuel panel assembly, P/N 7239160–502, –503, or –504, as applicable, in accordance with the Airplane Maintenance Manual (AMM) 28–21–05.

(2) With the refuel/defuel panel removed, loosen the four screws securing the lighting panel to the front, and remove the rear cover.

(3) Locate the lighting panel Jack 30 QA under the rear cover, and remove the screw securing the wire QA636–20. Remove the wire from Jack 30 QA, and reinstall the screw.

(4) Cap and stow wire QA636–20, and reassemble the refuel/defuel panel.

(5) Placard the lighting panel with "Lights inop."

(6) Reinstall and test the refuel/defuel panel in accordance with AMM 28–21–05.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

Issued in Renton, Washington, on September 12, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–23982 Filed 10–3–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 541

Exemptions From Minimum Wage and Overtime Compensation Requirements of the Fair Labor Standards Act; Public Sector Employers

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Extension of comment period on proposed rule.

SUMMARY: This document extends the period for filing written comments an additional 30 days on revisions to regulations governing the exemption from the minimum wage and overtime compensation requirements of the Fair Labor Standards Act for executive, administrative and professional employees employed in the public sector. The Department of Labor is taking this action in order to afford interested parties additional time to submit comments.

DATES: Comments must be received on or before November 6, 1991.

ADDRESS: Submit written comments to Samuel D. Walker, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card.

FOR FURTHER INFORMATION CONTACT: J. Dean Speer, Director, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S–3506, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 523–8412 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In the Federal Register of September 6, 1991 (56 FR 45824 through 45830), the Department of Labor published two notices concerning revisions to

regulations governing the exemption from the minimum wage and overtime pay requirements of the Fair Labor Standards Act (FLSA) for executive, administrative and professional employees employed in the public sector, as follows: (1) An interim final rule (56 FR 45824) that became effective upon publication, which also requested comments, for a special exception from a certain aspect of the "salary basis" test for public sector pay systems that deduct pay from otherwise-exempt public employees for absences of less than a day for personal reasons or illness when some form of paid leave is not used, and for furloughs; and (2) a notice of proposed rulemaking (56 FR 45828) to allow governmental entities to restore the exempt status of their employees under such pay systems if either (A) no actual deductions were made for absences of less than a day occurring before the September 6, 1991, effective date of the interim rule, or (B) deductions that were made for absences of less than a day occurring before September 6, 1991, are reimbursed. The Department requested that written comments from interested parties be submitted on the interim rule and the notice of proposed rulemaking on or before October 7, 1991.

Because of the interest that has been expressed in this rulemaking, the Department has decided to extend the public comment period. Therefore, the period for submitting public comments concerning this proposed rulemaking is extended for 30 additional days, to November 6, 1991.

Signed at Washington, DC on this 2nd day of October, 1991.

Samuel D. Walker,

Acting Administrator, Wage and Hour Division.

[FR Doc. 91-24116 Filed 10-3-91; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Reg. 12-35]

Air Force Privacy Act Program

AGENCY: Department of the Air Force, DOD.

ACTION: Proposed exemption rule.

SUMMARY: The Department of the Air Force proposes to amend two specific exemption rules for two existing systems of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The systems of records are identified as F035 AF MP A, Effectiveness/Performance Reporting Systems and F035 AF MP P, General Officer Personnel Data System.

DATES: Comments must be received on or before November 4, 1991, to be considered by the agency.

ADDRESSES: Send Comments to Mrs. Anne Turner, Air Force Access Programs Officer, SAF/AAIA, The Pentagon, Washington, DC 20330-1000. Telephone (703) 697-3491 or Autovon 227-3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force proposes to amend 32 CFR part 806b by specifying the records which may be exempt.

List of Subjects in 32 CFR Part 806b

Privacy.

Accordingly, the Department of the Air Force proposes to amend existing exemption rules in 32 CFR part 806b as follows:

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

1. The authority citation for 32 CFR part 806b continues to read as follows:

Authority: 5 U.S.C. 552a, Pub. L. 93-579.

2. Section 806b.13 is proposed to be amended by revising paragraphs (b)(7)(i) and (b)(10)(i) as follows:

§ 806b.13 General and specific exemptions.

* * * * *

(b) *Specific exemptions.* * * *

(7) *System identification and name*—F035 AF MP A, Effectiveness/Performance Reporting System.

(i) *Exemptions*—Brigadier General Selectee Effectiveness Reports and Colonel and Lieutenant Colonel Promotion Recommendations with close out dates on or before January 31, 1991, may be exempt from subsections of 5 U.S.C. 552a(c)(3); (d); (e)(4)(H); and (f).

* * * * *

(10) *System identification and name*—F035 AF MP P, General Officer Personnel Data System.

(i) *Exemption*—Air Force General Officer Promotion and Effectiveness Reports with close out dates on or before January 32, 1991, may be exempt from subsections of 5 U.S.C. 552a(c)(3); (d); (e)(4)(H); and (f).

* * * * *

Dated: September 30, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-23879 Filed 10-3-91; 8:45 am]

BILLING CODE 3810-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91-271, RM-7426; RM-7580; RM-7666; RM-7712]

Radio Broadcasting Services; Brownstown, Cannelton, and Edinburgh, IN; Beaver Dam, Campbellsville, Horse Cave and Munfordville, KY; Carthage and Lafayette, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on optional proposals involving four mutually-exclusive or interrelated petitions for rule making in the state of Indiana, at Brownstown, Cannelton and Edinburgh, as well as in the state of Kentucky at Campbellsville. The Cannelton proposal requires substitutions at Beaver Dam and Horse Cave, Kentucky. The Campbellsville proposal requires substitutions at Munfordville, Kentucky, as well as at Carthage and Lafayette, Tennessee. *See* Supplementary Information, *infra*.

DATES: Comments must be filed on or before November 21, 1991, and reply comments on or before December 6, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners or their counsel, as follows: William C. Potter, R.R. #2, Box 442, Madison, Indiana 47250 (petitioner, Brownstown, Indiana); John F. Garziglia, Esq., Pepper & Corazzini, 1776 K Street, NW., suite 200, Washington, DC 20006 (counsel for Hancock Communications, Inc., Cannelton, Indiana); Mary L. Rothrock, 290 Harrison Drive, Corydon, Indiana 47112 (petitioner, Edinburgh, Indiana); and John Wells King, Esq., Haley, Bader & Potts, suite 600, 2000 M Street, NW., Washington, DC 20036 (counsel for Heartland Communications, Inc., Campbellsville, Kentucky).

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-271, adopted September 6, 1991, and released September 30, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M

Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

The four mutually-exclusive or interrelated petitions consist of the following: (1) William C. Potter requests the allotment of Channel 275A to Brownstown, Indiana, as that community's first local aural broadcast service (RM–7426). (2) Hancock Communications, Inc. ("Hancock"), permittee of Station WKCM–FM, Channel 275A, Cannelton, Indiana, seeks the substitution of Channel 275C3 for Channel 275A at Cannelton, and modification of its permit accordingly (RM–7580). In order to accommodate its request, Hancock seeks the substitution of Channel 264A for Channel 274A at Beaver Dam, Kentucky, and modification of the construction permit issued to Beaver Dam Broadcasting ("BDB") for proposed Station WVPV(FM). Additionally, Hancock seeks the substitution of Channel 294A for Channel 264A at Horse Cave, Kentucky, a vacant allotment for which two applications are pending. An Order to Show Cause to BDB is not required since BDB has formally agreed to the proposed substitution at Beaver Dam, Kentucky. (3) Mary L. Rothrock ("Rothrock") requests the allotment of Channel 275A to Edinburgh, Indiana, as that community's first local aural broadcast service (RM–7666). (4) Heartland Communications, Inc. ("Heartland"), licensee of Station WCKQ(FM), Campbellsville, Kentucky, seeks the substitution of Channel 281C3 for Channel 281A at Campbellsville, and modification of its license accordingly (RM–7712). In order to accommodate its proposal, Heartland seeks the substitution of Channel 294A for Channel 272A at Munfordville, Kentucky, and modification of the license issued to South Central Kentucky Broadcasting ("South Central") for Station WLOC–FM, as well as the substitution of Channel 281A for Channel 272A at Carthage, Tennessee, and modification of the license issued to Wood Broadcasting, Inc. ("Wood Broadcasting") for Station WUCZ(FM). Additionally, Heartland seeks the substitution of Channel 272A for recently allotted Channel 281A at Lafayette, Tennessee. An Order to Show Cause must be issued to South Central and to Wood Broadcasting since they have not agreed to the proposed substitutions at Munfordville, Kentucky, and Carthage, Tennessee, respectively.

Coordinates for Channel 275A at Brownstown, Indiana, are 38–52–48 and 86–02–48; for Channel 275C3 at Cannelton, Indiana, 37–51–00 and 86–36–00; for Channel 264A at Beaver Dam, Kentucky, 37–21–20 and 86–44–00; for Channel 294A at Horse Cave, Kentucky, 37–13–26 and 85–51–46; for Channel 275A at Edinburgh, Indiana, 39–16–40 and 86–06–25; for Channel 281C3 at Campbellsville, Kentucky, 37–28–22 and 85–16–27; for Channel 294A at Munfordville, Kentucky, 37–16–30 and 85–55–00; for Channel 281A at Carthage, Tennessee, 36–18–43 and 85–57–08; and for Channel 272A at Lafayette, Tennessee, 36–33–10 and 85–58–09. Pursuant to Commission rule 1.420(g), we shall propose to modify the authorizations of Stations WKCM–FM and WCKQ(FM).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time of a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–23863 Filed 10–3–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 91–272, RM–7326]

Radio Broadcasting Services; Trinity, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Roy E. Henderson, d/b/a Trinity Broadcasting Company, requesting the allotment of Channel 251A to Trinity, Texas. Channel 251A can be allotted to Trinity, Texas, with a site restriction of 12.5 kilometers (7.8 miles) north to avoid a short-spacing to Station KBXX(FM), Channel 250C, Houston, Texas. The coordinates for Channel 251A at Trinity are North Latitude 31–03–33 and West Longitude 95–21–48.

DATES: Comments must be filed on or before November 21, 1991, and reply comments on or before December 6, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Roy E. Henderson, 839 Timber Cove, Seabrook, Texas 77586 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 654–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–272, adopted September 10, 1991, and released September 30, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–23862 Filed 10–3–91; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 350 and 396

[FHWA Docket No. MC-91-15]

RIN 2125-AC76

Commercial Motor Carrier Safety Assistance Program; Verification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment period.

SUMMARY: The FHWA published a notice of proposed rulemaking (NPRM) in the **Federal Register** on August 16, 1991 (56 FR 40848), in which the FHWA requested comments from interested parties on its proposal to amend 49 CFR parts 350 and 396 of the Federal Motor Carrier Safety Regulations (FMCSRs) implementing the provisions of the Motor Carrier Safety Act of 1990 (the Act). The comment period for the NPRM closed on September 16, 1991. In response to requests for an extension of the comment period, the FHWA is reopening the comment period and extending it until October 31, 1991.

DATES: Comments must be received on or before October 31, 1991.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC-91-15, room 4232. HCC-10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Commenters may, in addition to submitting "hard copies" of their comments, submit a floppy disk (either 1.2Mb or 360Kb capacity) in a format that is compatible with popular word processing programs such as WordPerfect, WordStar, or Microsoft "Word" for MacIntosh. Please indicate which word processing program was used. The software used should be identified by the commenter (e.g., WordPerfect 5.0). All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Hagan, Office of Motor Carrier Standards, (202) 366-2981; Ms. Retta Besse, Office of Motor Carrier Safety, Field Operations, State Programs Division, (202) 366-9579; or Mr. Paul Brennan, Office of the Chief Counsel, (202) 366-1353, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The Motor Carrier Safety Act of 1990 (the Act) (section 15 of the Sanitary Food Transportation Act of 1990, Pub. L. 101-500, 104 Stat. 1218) was signed by the President on November 3, 1990. The Act requires States participating in the Motor Carrier Safety Assistance Program (MCSAP States) and the FHWA to establish procedures ensuring proper and timely correction of safety violations noted during inspections funded with moneys authorized under Section 404 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2304). The FHWA published an NPRM concerning proposed amendments to the FMCSRs necessary to implement the provisions of the Act. The FHWA has received two formal requests for an extension of the comment period for the NPRM. The first request came from the Commercial Vehicle Safety Alliance (CVSA) for a 35-day extension, and the second request was from the American Trucking Associations (ATA) to extend the comment period until November 18, 1991.

The CVSA has requested an extension of the comment period to allow its member States an opportunity to study the proposed amendments to the SEP requirements. State agencies have cited the need for additional time to allow them to review their current verification activities and to compile the information requested by the FHWA in the NPRM. These States have expressed concern this rulemaking will have a major effect on the States preparation of their annual SEP and they believe additional time is necessary if they are to prepare substantive responses.

The ATA believes an extension of the comment period is necessary in order to afford the trucking industry an opportunity to thoroughly consider all of the ramifications of the NPRM. The ATA also considers the extension necessary because it wishes to discuss the NPRM at meetings of the ATA Safety Management Council (October 14-16) and the ATA Technical Advisory Group (November 4-5).

The FHWA has reviewed the requests and has decided to grant a 45-day extension of the comment period. Due to the need to expeditiously conclude this rulemaking, the FHWA will not grant the full additional time requested by the ATA. The FHWA believes that extending the comment period by more than 45 days would not afford the agency adequate time to properly consider the comments received before promulgating a final rule. The FHWA also wants to ensure the MCSAP States have sufficient time to prepare their State enforcement plans (SEPs) for the next fiscal year. The FHWA believes an extension of 45 days would allow all interested parties sufficient time to file their comments. The FHWA is therefore extending the comment period for this docket until Thursday, October 31, 1991.

Authority: 49 U.S.C. 2509; 49 U.S.C. 3102; 49 U.S.C. App. 2301-2304, 2505; Pub. L. 101-500, § 15(d), 104 STAT. 1213, 1219; 49 CFR 1.48.

List of Subjects in 49 CFR Parts 350 and 396

Highways and roads, Motor carriers, Motor vehicle safety, Vehicle maintenance, Reporting and recordkeeping requirements.

Issued on: September 27, 1991.

T.D. Larson,

Administrator.

[FR Doc. 91-23935 Filed 10-3-91; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 251

[Docket No. 910765-1165]

Financial Aid Program Procedures; Fishery for Surf Clams

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce

ACTION: Notice of extension of comment period.

SUMMARY: NOAA issues this notice to extend for 30 days the period during which the public may comment on the proposed rule to end the conditional fishery status for the surf clam fishery.

DATES: Written comments on the proposed rulemaking will be received through November 4, 1991.

ADDRESSES: Send all written comments to Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, F/TS1, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles L. Cooper (Financial Services Division, NMFS), 301-427-2396. This is not a toll-free telephone number.

SUPPLEMENTARY INFORMATION: The proposed rulemaking, which would remove § 251.25 (Fishery for surf clam) from subpart B (Conditional Fisheries) of 50 CFR part 251, was published in the **Federal Register** on August 28, 1991 (56 FR 42590). The proposed rule specified a

comment period extending through September 27, 1991.

The Mid-Atlantic Fishery Management Council requested an extension to the comment period so that it may evaluate the proposal more closely at its meeting on October 16 and 17. Because NOAA believes comments from the Council are in the best interest of the public, an additional 30 days for comment are established by this notice. The Secretary of Commerce will consider the public's comments in determining whether to modify or approve the proposed rule.

Authority: Section 4 of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742); Title XI, Merchant Marine Act, 1936, as amended (46 U.S.C. 1271–1279); Section 607, Merchant Marine Act, 1936, as amended (46 U.S.C. 1177); National Environmental Policy Act (42 U.S.C. 4321–4347); and Reorganization Plan No. 4 of 1970, 86 Stat. 909.

Dated: September 27, 1991.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 91–23911 Filed 10–3–91; 8:45 am]

BILLING CODE 3510–22 M

Notices

Federal Register
Vol. 56, No. 193
Friday, October 4, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Meat Import Limitations; Fourth Quarterly Estimate

Public Law 88–482, enacted August 22, 1964, as amended by Public Law 96–177, Public Law 100–418, and Public Law 100–449 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of bovine, sheep except lamb, and goats; and processed meat of beef or veal (Harmonized Tariff Schedule of the United States subheadings 0201.10.00, 0201.20.20, 0201.20.40, 0201.20.60, 0201.30.20, 0201.30.40, 0201.30.60, 0202.10.00, 0202.20.20, 0202.20.40, 0202.20.60, 0202.30.20, 0202.30.40, 0202.30.60, 0204.21.00, 0204.22.40, 0204.23.40, 0204.41.00, 0204.42.40, 0204.43.40, and 0204.50.00), which may be imported, other than products of Canada, into the United States in any calendar year. Such limitations are to be imposed when the Secretary of Agriculture estimates that imports of articles, other than products of Canada, provided for in Harmonized Tariff Schedule of the United States subheadings 0201.10.00, 0201.20.40, 0201.20.60, 0201.30.40, 0201.30.60, 0202.10.00, 0202.20.40, 0202.20.60, 0202.30.40, 0202.30.60, 0204.21.00, 0204.22.40, 0204.23.40, 0204.41.00, 0204.42.40, 0204.43.40, and 0204.50.00 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated aggregate quantity of meat articles prescribed for calendar year 1990 by subsection 2(c) as adjusted under subsection 2(d) of the Act.

As announced in the Notice published in the **Federal Register** on January 7, 1991 (56 FR 510), the estimated aggregate quantity of meat articles other than products of Canada prescribed by subsection 2(c) as adjusted by subsection 2(d) of the Act for calendar year 1991 is 1,198.6 million pounds.

In accordance with the requirements of the Act, I have determined that the fourth quarterly estimate of the aggregate quantity of meat articles other than products of Canada which would, in the absence of limitations under the Act, be imported calendar year 1991 is 1,318.4 million pounds.

Done at Washington, DC this 30th day of September, 1991.

Edward Madigan,

Secretary of Agriculture.

[FR Doc. 91–23924 Filed 10–3–91; 8:45 am]

BILLING CODE 3410–10–M

Office of International Cooperation and Development

Agribusiness Promotion Council; Meeting

Notice is hereby given that the USDA Agribusiness Pomotion Council, advisory committee to the Secretary of Agriculture on matters pertaining to the Caribbean Basin, will meet from 1 p.m. to 5 p.m. on Monday, October 28, 1991 and on Tuesday, October 29, from 8:30 a.m. to 2 p.m. This meeting was originally scheduled for October 1-2, 1991. The meeting will be held in room 104–A Administration Building, U.S. Department of Agriculture. The agenda for the meeting includes: Report on previous activities, discussion of issues of concern to the entire Council, and recommendations on the future direction of the program and specific projects. The meeting is open to the public. The public may participate as time and space permit.

Comments may be submitted to Dr. Duane Acker, Administrator, Office of International Cooperation and Development, until October 18, 1991. Further information may be obtained by calling Avram E. Guroff, Assistant to the Administrator, Office of International Cooperation and Development, (202) 245–5855.

Done in Washington, DC this 27th day of September, 1991.

John A. Miranda,

Acting Administrator

[FR Doc. 91–23925 Filed 10–3–91; 8:45 am]

BILLING CODE 3410–DP–M

Rural Electrification Administration

Kotzebue Electric Association, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and REA Environmental Policies and Procedures (7 CFR part 1794), has made a Finding of No Significant Impact (FONSI) with respect to a project proposed by Kotzebue Electric Association, Inc. (KEA), of Kotzebue, Alaska. This project consists of installing a new 3300 kW diesel electric generator into the existing plant site at Kotzebue, Alaska, and constructing related facilities. KEA has requested approval of financing assistance from REA.

FOR FURTHER INFORMATION CONTACT: REA's FONSI and KEA's Borrower's Environmental Reports (BER), may be reviewed at and copies obtained from the office of the Director, Northwest Area—Electric, REA, room 0230, South Agriculture Building, Washington, DC 20250, telephone (202) 382–1400, or at the office of Kotzebue Electric Association, Inc., P.O. Box 44, Kotzebue, Alaska 99752, telephone (907) 442–3491, during regular business hours. Questions or comments on the proposed project should be sent to the REA contact.

SUPPLEMENTARY INFORMATION: REA has reviewed the BERs submitted by KEA and has determined that they represent an accurate assessment of the scope and level of environmental impacts of the proposed project. The BERs, which include input from certain state and Federal agencies, have been adopted by REA to serve as its Environmental Assessment (EA). The project consists of installing a new 3300 kW diesel electric generator at the existing plant site and also constructing related facilities in Kotzebue, Alaska.

REA has determined that the BERs adequately considered the potential impacts of the proposed project and concluded that approval of the project would not result in a major Federal

action significantly affecting the quality of the human environment. REA determined that the proposed project will have no effect on cultural resources, important farmlands, floodplains, wetlands, water quality, air quality, threatened or endangered species or critical habitat. REA has identified no other matters of potential environmental concern related to the proposed project.

Alternatives examined for the proposed project included no action, installing the diesel electric generating unit at a new site, use of alternate forms of energy, energy management and conservation, and purchase of power. REA determined that the proposed project is an environmentally acceptable alternative that meets KEA's need with a minimum of adverse environmental impact. REA has concluded that project approval would not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

In accordance with REA Environmental Policies and Procedures, 7 CFR part 1794, KEA published notices in a newspaper of general circulation in the area and requested comments on the proposed project. The public was given 30 days to respond to the notice. No responses to the notices were received by KEA or REA.

Dated: September 25, 1991.

George E. Pratt,

Deputy Administrator—Program Operations.

[FR Doc. 91–23927 Filed 10–3–91; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

Export Administration

[Docket No. OEE–1–91]

In the Matter of: Delft Instruments, N.V., et al.

Order

This is an appeal from the renewal of a Temporary Denial Order against Respondents dated August 21, 1991, and issued by the Acting Assistant Secretary for Export Enforcement pursuant to authority delegated under the Export Administration Act of 1979, as amended, and the implementing Export Administration Regulations. The Export Administration Regulations have been continued by Executive Order 12730 under the authority of the International Emergency Economic Powers Act. The original order was issued on February 22, 1991. The Acting Assistant Secretary renewed the Temporary Denial Order for 90 days.

Having examined the record and based on the facts contained in that record, I hereby affirm the decision of the Acting Assistant Secretary. I note, however, that a team of Department of Commerce export control specialists is at this time conducting a review of Delft's Strategic Products Control Program, and I expect that a full report on the status of that Program will be made to the Acting Assistant Secretary for Enforcement immediately upon their return.

The appeal is denied.

This constitutes final agency action in this matter.

Dated: September 27, 1991.

Joan M. McEntee,

Acting Under Secretary for Export Administration.

Recommended Decision

In the Matter of: Delft Instruments N.V., Oldelft, Old Delft, Olde Delft, Oude Delft, Delft Instruments Electro-Optics, Delft Electronishe Products, and Optische Industrie Oude Delft, with an address at: Van Miereveleltlaan 9 P.O. Box 72 Delft, Netherlands; and OIP Instrubel, with an address at: Rue de Sacqz 75 1060 Brussels, Belgium; and Franke & Co. Optik GmbH, with an address at: Philosophenstrasse 116, Postfach 5420, 6300 Giessen/Lahn, Germany; and 47 Related Persons, Respondents.

Appearance for Appellant: Edward L. Rubinoff, Esq., Akin, Gump, Hauer, Field, 1333 New Hampshire Ave., N.W., suite 400, Washington, DC 20036.

Appearance for Agency: Anthony Hicks, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, room H–3837, 14th & Constitution Avenue, NW., Washington, DC 20230.

Background

This is an appeal from the renewal of a Temporary Denial Order against Appellants dated August 21, 1991. (56 FR 42979) (1991). The original ex parte denial order was issued on February 22, 1991. 56 FR 8321 (1991). That Order denied U.S. Export Privileges to Delft Instruments N.V. and nine other parties. The renewal added some 47 related persons. The Denial Order was issued by the Assistant Secretary for Export Enforcement pursuant to authority delegated under the Export Administration Act of 1979, as amended (50 U.S.C.A. app 24901–2420) and the implementing regulations (15 CFR part 768–799).[1]

An Appeal from the Renewal of the Temporary Denial Order was filed on behalf of Respondents, which included Delft and the various related parties on September 10, 1991.

Parties Positions

It is argued on behalf of Delft and the related parties that the ITAR violations by two of its subsidiaries do not support the continued denial of export privileges for all of the Delft companies; that the internal remedial action taken ensures that no unauthorized export of the U.S. origin items will occur again; that the inclusion of the Delft civil sector subsidiaries as related parties is not necessary; that the impact on the related parties and others should be considered and the period of the TDO should be shortened.

Agency Counsel asserts that the Temporary Denial Order (TDO) is still necessary to prevent an imminent violation of the Act or Regulations and that the extension of the TDO is made to all Delft's affiliates on the basis of the relationship rather than specific acts.

History

The following assertions are the bases for the issuance and extension of the TDO.

- Before and possibly after August 2, 1990, the date on which Iraq invaded Kuwait, Delft and OIP reexported from the Netherlands and Belgium to Iraq U.S.-origin forward looking infrared thermal imaging equipment, controlled by the Department of State, without first obtaining the required authorization from the United States Government. Given this, on January 25, 1991, the State Department suspended all current munitions export licenses naming Delft as a consignee.
- Delft has in its possession U.S.-origin integrated chips and transistors, controlled by the Department of Commerce.
- The imaging equipment is based on a common module system containing a 60-element detector. It is manufactured by Hughes Aircraft, Santa Barbara, California, was developed for the U.S. Army, can be used to enhance visibility at night or under other low-light conditions, and can be built into units for either tanks or advanced military equipment.
- For some time, Hughes has received export licenses from the Department of State to export the imaging equipment to Delft and OIP to be used in equipment provided to the NATO forces. All

[1] The Export Administration Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373) (1990) continued the Regulations in effect under the International Emergency Powers Act (50 U.S.C.A. 17701–1706 (Supp. 1990)).

contracts governing the sale of the Hughes equipment to Delft prohibit its being reexported from the Netherlands to Belgium without the appropriate authorization from the United States Government. Hughes has asked Delft to account for the imaging equipment sent to it. To date Delft has been unable to account for an abnormally high number of imaging systems.

• On February 5, 1991, Iraqi soldiers were captured on Qaruh Island, off the coast of Iraq. Coalition forces found night vision devices manufactured by Delft in the possession of those soldiers. In addition, Delft night vision binoculars were found by the Coalition forces on board an Iraqi vessel involved in the Qaruh Island action. Hughes imaging equipment may have been a part of those night vision devices.

• Delft is a consignee on certain Commerce licenses approved during 1987, 1988, 1989, and 1990. The licenses authorize the export of integrated chips used in the manufacture of "head up displays" for fighter jets and panel assemblies for tanks. The U.S. Government agencies involved in the investigation of Delft believe that Delft may still be in possession of some of the U.S.-origin integrated chips and transistors.

Discussion

Summary denial of export privileges is an extraordinary and extreme course of action not permitted in most administrative adjudications. See *Goldberg* v. *Kelly*, 397 U.S. 254 (1970); *Nichiro Gyogyo Kaisa, Ltd., et al.* v. *Baldridge USDC*, Civ. 84–0012 (D.D.C. Nov. 7, 1984). The extraordinary authority which Congress has granted must be applied sparingly.

The Assistant Secretary conducted an oral hearing and obviously gave careful consideration to the renewal request. In addition the Agency has shouldered a substantial burden in considering and granting numerous exceptions to the denial order. That the burden upon Respondents is still great is understood. However, the effect of the admitted violation and the inability or unwillingness of Respondent and its affiliates to render a full accounting for these artifacts of war which it was entrusted with warrants the action taken. Respondents records should be able to provide the accounting in hours—not days, weeks and now months! Until a full accounting for their stewardship is rendered it is appropriate to continue the suspension of export privileges. The expression "Thou canst be steward no longer" is no mere biblical admonition. The winds of war continue to be felt. The artifacts must be accounted for and the suppliers held accountable.

The assertion that related persons should be separately judged fails to recognize forty or so years of practice. It is the relationship, not any specific acts that is to be considered in the related persons determination.

This appeal should be Denied.[2]

Dated: September 23, 1991.

Hugh J. Dolan,

Administrative Law Judge.

[FR Doc. 91–23986 Filed 10–3–91; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–570–601]

Preliminary Results of Antidumping Duty Administrative Review: Tapered Roller Bearings and Parts Thereof From the People's Republic of China

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

EFFECTIVE DATE: October 4, 1991.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or John Beck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–8830 or (202) 377–3464, respectively.

PRELIMINARY RESULTS:

Background

On February 26, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 6669) as amended antidumping duty order on tapered roller bearings (TRBs) from the People's Republic of China (PRC).

This third administrative review was requested by the Timken Company, the petitioner, on June 29, 1990, in accordance with 19 CFR 353.22(a). On July 26, 1990, we initiated this review for China National Machinery and Equipment Import and Export Corporation (CMEC) and Premier Bearing and Equipment, Ltd. (Premier). During the original investigation of TRBs from the PRC, CMEC was the umbrella organization through which all companies in the PRC exported TRBs to the United States. As such, in reviewing CMEC, we included all PRC companies that exported TRBs to the United States. Given that the Department's current practice is to consider all Chinese companies as one unless evidence to the contrary can be provided, by initiating this review for CMEC and Premier, the Department meant to include all exports of TRBs from the PRC.

In addition to CMEC and Premier, this review includes Guizhou Machinery Import and Export Corporation (Guizhou), Henan Machinery and Equipment Import and Export Corporation (Henan), Jilin Machinery Import and Export Corporation (Jilin), Liaoning Machinery and Equipment Import and Export Corporation (Liaoning), Luoyang Bearing Factory (Luoyang), and Shanghai General Bearing Co., Ltd. (Shanghai General).

This review covers the period from June 1, 1989, to May 31, 1990, for Premier and Shanghai General, and from May 12, 1989, to May 31, 1990, for all other companies. The original antidumping duty order, published on June 15, 1987 (52 FR 22637), only included Premier. After a remand determination, U.S. Customs began to suspend liquidation on CMEC on May 12, 1989. Although the period May 12, 1989, through May 31, 1989, would normally be part of the 1988–1989 administrative review period, the relative brevity of this period made it logical to include these entries as part of the 1989–1990 review period. The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

The Department sent a questionnaire and deficiency letters to Premier on December 3, 1990, March 8 and 15, 1991, and May 20, 1991. Responses were received on December 21, 1990, January 2 and 24, 1991, March 29, 1991 and June 3, 1991. The Department sent a questionnaire and deficiency letters to Shanghai General on November 29, 1990, March 28, 1991, and May 20, 1991. The Department received responses on January 28, April 29, and June 10, 1991. Questionnaires and deficiency letters were sent to CMEC, Guizhou, Harbin Bearing Factory (Harbin), Henan, Jilin, Liaoning, and Luoyang on March 7, 1991, April 5, 1991, and May 20, 1991. Responses were received from these companies on April 1, May 3, and June 10, 1991. Harbin indicated that it did not export TRBs to the United States during the review period, and was therefore excluded from our analysis.

The Department conducted verification of the responses of Premier in Hong Kong on July 10 and 11, 1991, and Luoyang and Henan in the PRC from July 4 to 6, 1991. Due to flooding in the PRC, the Department was unable to conduct a scheduled verification of Shanghai General's responses. On July

[2] As in prior cases, I lament the failure to issue a charging letter and get on with the adjudication.

23, 1991, the Department conducted a verification of Shanghai General's exporter's sales price (ESP) sales in Blauvelt, New York.

On September 11, 1991, petitioner alleged that Premier's verification report showed that Premier had withheld information during the course of the review on its relationships with bearing manufacturers in the PRC. Petitioner stated that these relationships made the foreign market value and U.S. price information reported by Premier irrelevant and that the Department should resort to a best information available (BIA) rate for Premier. Premier stated that its relationships with companies in the PRC do not involve any tapered roller bearing manufacturers and hence, petitioner's argument has no merit. Since these arguments were submitted too late to be considered for these prelimiary results, the Department will consider them for purposes of the final results.

Separate Rates

In order to determine whether company-specific dumping margins should be calculated in this review, we asked respondents to provide information on company ownership and relationships, controls on external trade, profit retention, and other facets of their sale of TRBs. As stated in the Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China (56 FR 20588, May 6, 1991), we will issue separate rates if respondents can demonstrate both a *de jure* and *de facto* absence of central control of export prices. Evidence supporting, though not requiring, a finding of *de jure* absence of central control would include: (1) Documentation showing the absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the Chinese government decentralizing control of companies. Evidence supporting a finding of *de facto* absence of central control with respect to exports would include: (1) The extent of the individual exporter's relationship with other exporters/manufacturers of the subject merchandise; (2) whether each exporter can keep the proceeds from its sales; and (3) whether each exporter sets its own export prices independently of the government and other exporters.

Based on our analysis of the information provided by each of the respondents, we preliminarily determine that company-specific dumping margins are warranted for all eight companies. The bases for this determination are outlined in a memo to the file dated July 23, 1991.

Scope of Review

Imports covered by this review are shipments of TRBs and parts thereof from the PRC. This merchandise is currently classifiable under items 8482.20.00, 8482.91.00.60, 8482.99.30, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30 and 8483.90.80 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

United States Price

For sales made by CMEC, Guizhou, Henan, Jilin, Liaoning, Luoyany, and Premier, we based the United States Price (USP) on purchase price, in accordance with section 772(b) of the Act, both because the subject merchandise and sold to unrelated purchasers in the United States prior to importation into the United States and because exporter's sales price (ESP) methodology was not indicated by other circumstances. For sales made by Shanghai General, we based the USP on ESP, in accordance with section 772(c) of the Act.

We calculated purchase price based on either the packed, CIF or packed ex-factory prices to unrelated purchasers. With respect to CIF sales, we made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, and brokerage and handling. We valued the inland freight deduction for all companies in the PRC using surrogate information provided by the U.S. Embassy in India. We selected India as the surrogate country for the reasons explained in the "Foreign Market Value" section of this notice. We calculated ESP based on the packed, ex-warehouse U.S. subsidiary price. We made deductions for foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. inland freight, U.S. inland insurance, and U.S. brokerage. Given that we used information which showed SG&A expenses as a percentage of the cost of manufacture in our constructed value, we were unable to isolate the selling expenses from the total SG&A on the foreign market value side. Therefore, we made no further adjustments to ESP for selling expenses.

Foreign Market Value

For all companies in the PRC, section 773(c)(1) of the Act provides that the Department shall determine foreign market value (FMV) using a factors of production methodology if (1) the merchandise is exported from a non-market economy (NME) country, and (2) the information does not permit the calculation of FMV using home market prices, third country prices, or constructed value (CV) under section 773(a).

Pursuant to section 771(18) of the Act and based on determinations in prior proceedings, the PRC is an NME. (See, *e.g.,* Initiation of Antidumping Duty Investigation: Refined Antimony Trioxide from the People's Republic of China (56 FR 23549, May 22, 1991); Final Determination of Sales at Less than Fair Value: Natural Menthol from the People's Republic of China (46 FR 24614, May 1, 1981)). Respondents have not refuted this determination. Furthermore, absent a showing that all costs and prices are market-oriented, FMV in an NME cannot be based on home market prices, third country prices, or CV under section 773(a). No such showing has been made in the course of this review. As a result, section 773(c) of the Act, as amended by the Omnibus Trade and Competitiveness Act of 1988 (1988 Act), requires the Department to determine FMV on the basis of the market valuation of the factors of production utilized in producing the subject merchandise. (In a recent final determination (Final Determination of Sales at Less Than Fair Value: Chrome-Plated Lug Nuts from the People's Republic of China (56 FR 46153, September 10, 1991)), the Department valued some factors using market driven costs in the PRC, and in a recent preliminary determination, (Preliminary Determination of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans from the People's Republic of China (56 FR 25664, June 5, 1991)), we preliminarily valued some factors using their actual acquisition costs from market economy countries. Neither of these issues has arisen in this administrative review.)

The 1988 Act further permits the Department to value the factors of production in one or more market economy countries that are at a level of economic development comparable to that of the NME and that are significant producers of comparable merchandise.

Of countries known to produce TRBs, we have determined that India, Pakistan, Indonesia, and the Philippines are comparable to the PRC in terms of per capita gross national product (GNP), the growth rate in per capita GNP, and the national distribution of labor. We chose India as the most comparable surrogate on the basis of these criteria. We calculated FMV based on factors of production reported by the seven

companies in the PRC. We used publicly available information relating to India to value the various factors of production.

The material cost for each component was determined by multiplying the gross weight of steel for each component by the steel unit price for that component. The result was reduced by the gross weight of steel scrap multiplied by the scrap value. The gross weight of steel scrap was reduced to account for waste and burn off. Based on our findings at verification it was determined that Luoyang's reported material input for eight U.S. TRB part numbers did not account for the scrap steel bar used in the production process. We have therefore included this additional steel bar input for the appropriate part numbers in our calculations.

The direct labor hours for each unit of output were reported by the seven companies in the PRC. These direct labor hours were calculated by dividing the total direct labor hours for the product by the total production of the product.

We valued the factors of production as follows:

- For hot rolled alloy steel bars and rods, irregular coils, used in the production of rollers, hot rolled alloy steel bars and rods, used in the production of cups and cones, and cold rolled strip and sheet, used in the production of cages, we used the U.S. dollar per kilogram value of exports from the European Community to India for 1989. We adjusted these values forward in time to the period of review (POR) to reflect inflation. We also adjusted these values to include freight from the port to the factory. For bearing quality and non-bearing quality steel scrap, we used as best information available, ratios of the price of bearing and non-bearing quality steel scrap used in the remanded determination to the average price of bar and steel sheet used in the remanded determination. We then applied these ratios to the applicable steel input values described above to arrive at a value for bearing and non-bearing quality steel scrap.
- For direct labor, we used the U.S. Department of Labor, Bureau of Labor Statistics rate for India from 1985, adjusted forward in time to the POR to reflect inflation. For indirect labor and sales, general and administrative (SG&A) labor, we used the appropriate percentage of direct labor from the respondents' deficiency responses.
- For factory overhead, we used information obtained from a financial report of a producer of similar merchandise in India. This information showed factory overhead as a percentage of total materials and total labor costs.
- For SG&A expenses, we used information obtained from the same financial report used to obtain factory overhead. This information showed SG&A expenses as a percentage of the cost of manufacture.
- For profit, we used the statutory minimum of eight percent of the cost of manufacture plus SG&A expenses.
- For packing, we used as BIA, one percent of the total ex-factory cost and SG&A expenses combined. This methodology, obtained from publicly available data, is contained in the Final Determination of Sales at Less than Fair Value: TRBs from Italy, 52 FR 24198 (June 29, 1987). This metholodolgy is consistent with the Department's valuation of packing in the Final Determination of Sales at Less than Fair Value: TRBs from the People's Republic of China, 52 FR 19748 (May 27, 1987), TRBs from the Hungarian People's Republic, 52 FR 17428 (May 8, 1989), TRBs from the Socialist Republic of Romania, 52 FR 17433 (May 8, 1989), and most recently, in the Preliminary Results of Antidumping Duty Administrative Review: TRBs from the Republic of Hungary, 56 FR 28525 (June 21, 1991).

Based on our findings at verification, it was determined that Luoyang failed to report a commission paid on certain sales to the United States. Given that we used information which showed SG&A expenses as a percentage of the cost of manufacture in our constructed value, it is impossible to determine whether this percentage represents an amount for home market commissions. Therefore, we made no circumstance of sale adjustment for commissions for Luoyang.

We have based FMV for Premier on its third country sales since: 1. Premier is a Hong Kong reseller of the subject merchandise; 2. the producers of TRBs in the PRC who supplied Premier were unaware of the countries to which Premier intended to resell the merchandise; and 3. Premier does not have a viable home market for TRBs. In order to determine whether there were sufficient sales of TRBs in the home market to serve as a viable basis for calculating FMV, we compared the volume of Premier's home market sales of TRBs to the volume of Premier's third country sales of TRBs, in accordance with section 773(a)(1) of the Act. Premier did not have a viable home market with respect to sales of TRBs during the POR, and thus we calculated FMV based on delivered prices to unrelated customers in Brazil and Singapore, in accordance with section 773(a)(1)(A) of the Act.

Due to the fact that Premier is a Hong Kong reseller of the subject merchandise, it claimed it does not have access to information concerning the physical characteristics of the merchandise produced in the PRC. Therefore, for those comparisons that involve non-identical merchandise, Premier did not report differences in these physical characteristics. Premier also did not report differences in the physical characteristics of the merchandise in the 1987–88 and 1988–89 administrative reviews. As we stated in the Final Results of Antidumping Duty Administrative Reviews: Tapered Roller Bearings and Parts Thereof from the People's Republic of China (56 FR 66, January 2, 1991), if the same deficiencies found in the first two administrative reviews were found in a subsequent review, it is likely that any margin based on BIA would be more adverse to respondent. Therefore, for purposes of this review, we determined that the BIA rate for comparisons of non-identical merchandise should be the greater of either: 1. the weighted average rate obtained from a comparison of the identical merchandise; or 2. the 0.97% rate used in the first two administrative reviews. After a comparison of the identical merchandise, we determined that the 0.97% rate would be the greater of these two rates.

For Premier, we made deductions for brokerage and handling, ocean freight, and marine insurance. Pursuant to 19 CFR 353.56, we made circumstance of sale adjustments for differences in credit expenses and commissions. During the course of the verification of Premier in Hong Kong, certain errors were discovered in Premier's response. See verification report dated July 19, 1991. We will adjust for these errors in our final results.

Current Conversion

We made currency conversions in accordance with 19 CFR 353.60(a).

Currency conversions were made at the rates certified by the Federal Reserve Board (for Premier) or at the rates published by the International Monetary Fund in International Financial Statistics (for all other companies).

Preliminary Results of the Review

As we stated in the "Separate Rates" section of this notice, we preliminarily determine that company-specific dumping margins are warranted for the eight companies listed. Information on the record indicates that the companies responding to the Department's questionnaire account for approximately

half of all exporters of the subject merchandise from the PRC. For those companies that we were unable to locate, as well as any other exporters, except for the eight companies listed below, we have assigned an "all others" rate equal to the highest rate for any company in this administrative review. This rate will be the deposit rate for all companies who have not received an individual rate in any administrative review or the less than fair value investigation, and are not related to any firms with individual rates. As a result of our review, we preliminarily determine the margins to be:

Manufacturer/ Exporter	Time period	Margin (percent)
CMEC	5/12/89—5/31/90	0.00
Guizhou	5/12/89—5/31/90	2.95
Henan	5/12/89—5/31/90	0.00
Jilin	5/12/89—5/31/90	15.61
Liaoning	5/12/89—5/31/90	0.00
Luoyang	5/12/89—5/31/90	3.25
Premier	6/01/89—5/31/90	0.60
Shanghai General	6/01/89—5/31/90	0.00
All Others	5/12/89—5/31/90	15.61

The Department will issue appraisement instructions concerning these companies directly to the Customs Service upon completion of this administrative review.

Furthermore, as provided by section 751(a)(1) of the Tariff Act, upon publication of the final results of this review: (1) A cash deposit of estimated dumping duties based on the above margins shall be required on shipments of TRBs by Guizhou, Jilin, Luoyang, and Premier; and (2) since the margins for CMEC, Henan, Liaoning and Shanghai General are 0.00 percent, the Department shall not require a cash deposit of antidumping duties on entries of TRBs from CMEC, Henan, Liaoning and Shanghai General. These deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of Chinese TRBs entered, or withdrawn from warehouse, for consumption on or after that publication date, as provided by section 751(a)(1) of the Tariff Act. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments must be submitted in at least ten copies to the Assistant Secretary for Import Administration no later than October 11, 1991, and rebuttal briefs no later than October 18, 1991. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on October 25, 1991, at 9:30 a.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B–099, within ten days of the publication of this notice in the **Federal Register**. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This administrative review and notice are in accordance with sections 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR § 353.22(C)(5) (1989).

Dated: September 30, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91–23987 Filed 10–3–91; 8:45 am]

BILLING CODE 3510–DS–M

The Johns Hopkins University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 91–052. *Applicant:* The Johns Hopkins University, Baltimore, MD 21218. *Instrument:* Differential Scanning Microcalorimeter, Model DASM–4M. *Manufacturer:* NPO Biopribor, USSR. *Intended Use:* See notice at 56 FR 14930, April 12, 1991. *Reasons:* The foreign instrument provides: (1) A sensitivity precision of 0.3 μW, (2) a temperature range of 0.5 to 160 °C and (3) cell volume to 0.5 ml. *Advice Submitted By:* National Institutes of Health, August 15, 1991.

Docket Number: 91–054. *Applicant:* The University of Texas Health Science Center at San Antonio, San Antonio, TX 78284. *Instrument:* Manipulators and Microforge for Patch Electrodes. *Manufacturer:* Narishige Scientific Instruments, Japan. *Intended Use* See notice at 56 FR 14931, April 12, 1991. *Reasons:* The foreign instrument provides capability for fire polishing of patch electrodes and extended range of manipulator motion (30 mm). *Advice Submitted By:* National Institutes of Health, August 15, 1991.

Docket Number: 91–065. *Applicant:* Louisiana State University, Baton Rouge, LA 70808–4214. *Instrument:* Mass Spectrometer, Model 252. *Manufacturer:* Finnigan, West Germany. *Intended Use:* See notice at 56 FR 23872, May 24, 1991. *Reasons:* The foreign instrument provides: (1) A computer-controlled 24-sample water equilibrator, (2) an 8-cup multicollector system and (3) an internal precision of 0.005 per mil (delta c) for 3 bar μl samples of CO_2. *Advice Submitted By:* National Institutes of Health, August 30, 1991.

Docket Number: 91–068. *Applicant:* Washington University School of Medicine, St. Louis, MO 63110. *Instrument:* Xenon Flash Lamp. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* See notice at 56 FR 23873, May 24, 1991. *Reasons:* The foreign instrument provides: (1) Light collecting quartz optics, (2) a spot-focussing mirror and (3) a 1-second recharge time. *Advice Submitted By:* National Institutes of Health, August 30, 1990.

Docket Number: 91–092. *Applicant:*University of Illinois at Urbana-Champaign, Urbana, IL 61801. *Instrument:* Portable Differential Spectrometer/Scintillomer, Model GRS-500. *Manufacturer:* Scientrex, Canada. *Intended Use:* See notice at 56 FR 34186, July 26, 1991. *Reasons:* The foreign instrument provides a resolution to 8.0% FWHM in 2.0 pi cesium 137 field and portable operation for measurement of low-level gamma radiation in lithographic field surveys. *Advice Submitted By:* National Institute of Standards and Technology, September 11, 1991.

The National Institutes of Health and National Institute of Standards and Technology advise that (1) the capabilities of each of the foreign instruments described above are

pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91–23988 Filed 10–3–91; 8:45 am]

BILLING CODE 3510–DS–M

Rutgers University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 91–104. *Applicant:* Rutgers University, Piscataway, NJ 08855–0849. *Instrument:* 2 Dimensional Ion Energy Analyzer. *Manufacturer:* High Voltage Engineering, The Netherlands. *Intended Use:* See notice at 56 FR 36776, August 1, 1991.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer.

The accessory is pertinent to the intended uses and we know of no domestic accessory which can be readily adapted to the instrument.

Frank W. Creel,

Director, Statutory Impact Programs Staff.

[FR Doc. 91–23989 Filed 10–3–91; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council (Council) and its Committees will meet on October 15–17, 1991, at the Sheraton Inn/Salisbury, 300 S. Salisbury Boulevard, Salisbury, MD; telephone: 301–546–4400.

Council—The Council will begin its regular meeting on October 16 and 17 at 8 a.m., and will adjourn on October 17 at approximately 2 p.m. The Council may take action on the Summer Flounder Fishery Management Plan (Amendment #2) and on other fishery management matters, as deemed necessary. The Council may also hold a closed session (not open to the public) to discuss personnel and/or national security matters.

Committees—Council Committees will conduct a series of meetings on October 15 beginning at 10 a.m., and continuing at hourly intervals in the following order to develop programs for 1991–92: Information and Education; Scallop and Lobster; Surf Clam and Ocean Quahog; Habitat/Endangered Species; Ad Hoc Legislative; Coastal Migratory; Squid-Mackerel-Butterfish; Law Enforcement; Finance; Seafood Inspection; and Large Pelagics.

On October 16 the Demersal Species Committee will meet from 1 p.m. to 3 p.m. On the same day, the Executive Committee will meet from 3 p.m. to 4:30 p.m.

For more information contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover, DE 19901; telephone: 302–674–2331.

Dated: September 30, 1991.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–23916 Filed 10–3–91; 8:45 am]

BILLING CODE 3510–22–M

Travel and Tourism Administration

[Docket No. 910805–1205]

United States Travel and Tourism Administration Facilitation Fee

AGENCY: United States Travel and Tourism Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice concerns assessment and collection of the United States Travel and Tourism Administration Facilitation Fee (the fee) under section 306 of the International Travel Act of 1961, as added by section 10301 of the Omnibus Reconciliation Act of 1990 (Pub. L. No. 101–508) (the Act), and imposition and collection of penalties and interest under section 307 of the Act. This notice applies to passenger airline carriers only, and does not affect USTTA's continued efforts to assess and collect the fee from passenger cruise ship lines. The Under Secretary for Travel and Tourism:

(1) Waives imposition of penalties or interest for late payments of the United States Travel and Tourism Administration Facilitation Fee for amounts assessed for the first quarter of calendar year 1991, due on May 1, 1991;

(2) Is delaying submitting bills for the second and subsequent quarters of 1991 until he has determined, based on consultation with the Department of State, the Department of Transportation, and other Federal agencies, whether assessment and collection of the Facilitation fee is consistent with treaties or international agreements entered into by the United States;

(3) Waives billing of individual carriers in any quarter where the cost of billing for that quarter exceeds the amount to be recovered; and

(4) Is extending the due date for payment of the fee for first quarter 1991 until November 4, 1991. Carriers paying by that date will not be subject to collection action for the principle amount due. Carriers which have not yet paid the fee for first quarter 1991 and wish to request, in lieu of paying the fee by the above date, either an adjustment of the estimated fee or a determination that collection of the fee would be inconsistent with a treaty or international agreement entered into by the United States, may also do so by November 4, 1991.

DATES: This action is effective as of October 4, 1991.

FOR FURTHER INFORMATION CONTACT: Lee J. Wells, Director, Office of Strategic Planning and Administration, United States Travel and Tourism Administration ((202) 377–3811).

SUPPLEMENTARY INFORMATION:

Background

By operation of section 306 of the International Travel Act of 1961, as added by section 10301 of the Omnibus Reconciliation Act of 1990 (Pub. L. No. 101–508), and a final rule imposing the fee, published in the **Federal Register** on January 3, 1991 (56 FR 176), the Secretary of Commerce is required to charge and collect from commercial airlines and passenger cruise ship lines transporting foreign passengers to the United States, on a quarterly basis, a United States Travel and Tourism Administration (USTTA) Facilitation Fee beginning January 1, 1991. However, the fee may not be collected where assessment and collection of the fee is

inconsistent with treaties or international agreements entered into by the United States.

For calendar year 1991, the fee is assessed in the amount of one dollar per foreign passenger transported by a commercial air line or passenger cruise ship line into the United States for purposes of business or pleasure. Carriers were assessed the fee for the first quarter of 1991, which was due thirty-one days after the end of the quarter, on May 1, 1991.

On March 15, 1991 (56 FR 11116), USTTA published a Notice of Proposed Rulemaking on the USTTA Facilitation Fee. The proposed rules set out procedures by which the Under Secretary for Travel and Tourism (Under Secretary), as the Secretary of Commerce's designee, could initiate collection actions (proposed 15 CFR 1201.9); impose and assess civil penalties, administrative charges, and interest (proposed 15 CFR 1201.9–1201.11); and bring civil actions for non-payment or late payment of an assessed fee (proposed 15 CFR 1201.12). The proposed regulations also set out procedures for affected airlines and passenger cruise ship lines to request exemption from assessment and collection of the fee and to withhold payment of the fee based on a claim that assessment and collection of the fee from that particular airline or passenger cruise ship line would be inconsistent with treaties or international agreements entered into by the United States (proposed 15 CFR 1201.13(a) and (b)).

The period for comment on these proposed regulations ended on April 15, 1991. When review of all comments has been completed, the Under Secretary will publish in the **Federal Register** the Department of Commerce's final action on the proposed regulations.

We understand that there is uncertainty among carriers regarding the imposition of collection penalties, administrative charges, interest, and enforcement procedures with respect to first quarter 1991 fees not remitted because bills were not timely received. In addition, carriers have questioned whether the fee must be paid prior to a determination that collection of the fee would be consistent with a treaty or international agreement.

USTTA has received over 100 requests for determination that assessment and collection of the fee would be inconsistent with treaties or international agreements entered into by the United States. The Under Secretary will consult with the Department of State, the Department of Transportation, and other Federal agencies before determining whether assessment and collection of the fee is consistent with treaties and international agreements entered into by the United States. The consultation process is currently underway. The Under Secretary has elected not to submit to any carriers bills for the second and subsequent quarters of 1991 until the consultation process is completed and there has been a determination that assessment and collection of the fee would be consistent with treaties and international agreements entered into by the United States.

The Under Secretary has also elected not to submit bills to particular carriers for any quarter in cases where the cost of billing the quarterly fee exceeds the amount to be recovered. The Department of Commerce is currently conducting a cost study to establish a minimum debt amount below which the fee will not be billed to individual airlines or passenger cruise ship lines.

Finally, USTTA notes that there has been considerable confusion with respect to assessment and collection of the fee for the first quarter of 1991. Both foreign and domestic carriers have complained that they lacked adequate time to implement collection systems to recover the funds to pay the fee. As of the date of this publication, USTTA continues to receive requests from carriers for determination of nonapplicability of either the estimates or the fee itself. In many cases, foreign carriers were not aware of the appropriate procedures (to either pay the fee or withhold payment and request determination from the Under Secretary of the non-applicability of the estimates or the fee).

In addition, USTTA has encountered certain administrative problems in assessing and collecting the fee. In several cases, USTTA was furnished incorrect or outdated addresses, and as a result, several carriers did not receive their bills in time to comply with the due date. Other carriers, because of the vagaries of their local postal systems, did not receive the bills in sufficient time to comply with the due date. USTTA is advised that representatives of several foreign countries have contacted the State Department on behalf of their constituent airlines to inquire whether these carriers may still submit notification for the first quarter of 1991.

For these reasons, the Under Secretary (1) waives imposition of penalties or interest for late payments of the United States Travel and Tourism Administration Facilitation Fee for amounts assessed for the first quarter of calendar year 1991, which were due on May 1, 1991; (2) is delaying submitting bills for the second and subsequent quarters of 1991 until he has determined, based on consultation with the Department of State, the Department of Transportation, and other Federal agencies, whether assessment and collection of the Facilitation Fee is consistent with treaties or international agreements entered into by the United States; (3) waives billing of individual carriers in any quarter where the cost of billing exceeds the amount to be recovered; and (4) is extending the due date for payment of the fee for first quarter 1991 until November 4, 1991. Carriers paying by that date will not be subject to collection action for the principle amount due. Carriers which have not yet paid the fee for first quarter 1991 and wish to request, in lieu of paying the fee by the above date, either an adjustment of the estimated fee or a determination that collection of the fee would be inconsistent with a treaty or international agreement entered into by the United States, may also do so by November 4, 1991.

Dated: September 30, 1991.

Wylie H. Whisonant, Jr.,

Acting Under Secretary for Travel and Tourism.

[FR Doc. 91–23990 Filed 10–3–91; 8:45 am]

BILLING CODE 3510–11–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Bangladesh

October 1, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: October 8, 1991.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 56 FR 2907, published on January 25, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 1, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 18, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1991 and extends through January 31, 1992.

Effective on October 8, 1991, you are directed to amend the directive dated January 18, 1991 to increase the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Bangladesh:

Category	Adjusted twelve-month limit [1]
334	86,788 dozen.
335	168,312 dozen.
336/636	266,803 dozen.
338/339	796,651 dozen.
351/651	418,722 dozen.
635	212,476 dozen.
638/639	1,099,516 dozen.
645/646	259,858 dozen.
847	433,932 dozen.

[1] The limits have not been adjusted to account for any imports exported after January 31, 1991.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-23984 Filed 10-3-91; 8:45 am]

BILLING CODE 3510-DR-F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

September 27, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 4, 1991.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6581. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 340 is being increased for special shift, reducing the limit for Category 640 to account for the increase.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 56 FR 32558, published on July 17, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 27, 1991.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on July 11, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on October 4, 1991, you are directed to amend the directive dated July 11, 1991 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Thailand:

Category	Adjusted twelve-month limit [1]
Sublevels in Group II	
340	216,000 dozen.
640	294,000 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-23985 Filed 10-3-91; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 4, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely

Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons in opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing the blind or other severely handicapped.

It is proposed to add the following commodities and services to the Procurement List:

Commodities

Binder, Pilot's
7510–00–NSH–0010
(Requirements of Wright-Patterson AFB, Ohio only)
Broom, Upright
7920–00–292–2368
7920–00–292–2369
7920–00–292–4370

Services

Grounds Maintenance, Buildings 1020, 1610, 2650A and 6004, Edwards Air Force Base, California
Janitorial/Custodial, for the following locations in Little Rock, Arkansas:
U.S. Post Office and Courthouse (remaining areas), 600 W. Capitol
Federal Building, 700 W. Capitol
Parking Facility, 622 W. 4th Street
Parking Lot, Northeast Corner of 2nd & Gaines Streets
Interagency Motor Pool, 300 Gaines Street
Recycling Service, Department of the Army, For Drum, New York
Recycling Service, Veterans Administration Medical Center, Salisbury, North Carolina

Beverly L. Milkman,

Executive Director.

[FR Doc. 91–23957 Filed 10–3–91; 8:45 am]

BILLING CODE 6820–33–M

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletions from procurement list.

SUMMARY: This action adds to and deletes from the Procurement List commodities and services to be furnished by nonprofit agencies employing the blind or other severely handicapped.

EFFECTIVE DATE: November 4, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On December 28, 1990, July 16, August 9, 16, 1991, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (55 FR 53329, 56 FR 32407, 37900 and 40872) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities and provide the services at a fair market price and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Kit, First Aid
6545–00–656–1092
6545–00–656–1093
6545–00–656–1094
6545–01–010–7754

Services

Janitorial/Custodial, U.S. Army Reserve Center, 600 Armory Drive, Greensburg, Pennsylvania
Janitorial/Custodial, #2 U.S. Army Reserve Center, 1300 St. Clair Road, Johnstown, Pennsylvania
Janitorial/Custodial, PVT Sterling L. Morelock USARC, 7100 Leech Farm Road, Pittsburgh, Pennsylvania
Janitorial/Custodial, U.S. Army Reserve Center, 254 McClellandtown Road, Uniontown, Pennsylvania
Mailroom Operation, J.S. Geological Survey, Denver Federal Center, Denver, Colorado

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodity and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6. Accordingly, the following commodity and service are hereby deleted from the Procurement List:

Commodity

Rag, Wiping
7920–00–205–1711
(Requirements for Warner Robins, Georgia only)

Service

Grounds Maintenance, Wheeler National Wildlife Refuge, Decator, Alabama

Beverly L. Milkman,

Executive Director.

[FR Doc. 91–23958 Filed 10–3–91; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Special Operations Policy Advisory Group; Meeting

The Special Operations Policy Advisory Group (SOPAG) will meet on October 31, 1991 in the Pentagon, Arlington, Virginia to discuss sensitive, classified topics.

The mission of the SOPAG is to advise the Office of the Secretary of Defense on key policy issues related to the development and maintenance of effective Special Operations Forces.

In accordance with section 10(d) of Public Law 92–463, the "Federal Advisory Committee Act," and section 552b(c)(1) of title 5, United States Code, this meeting will be closed to the public.

Dated: October 1, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–23960 Filed 10–3–91; 8:45 am]

BILLING CODE 3810–01–M

Secrecy/Nondisclosure Agreements; Clarification of the Rights and Obligations of All NSA Employees, Former NSA Employees, and Other Individuals Who Signed NSA Secrecy Agreements Prior to the Date of This Notice

AGENCY: National Security Agency, DOD.

ACTION: Notice.

This notice clarifies the notice previously published in the **Federal Register** September 17, 1991 (56 FR 47070) regarding NSA Secrecy/Nondisclosure Agreements.

In accordance with the Treasury, Postal Service, and General Government Appropriations Act for Fiscal Year 1991, effective November 5, 1990, the following language shall be considered to be incorporated into and a part of any NSA-sponsored regulation, policy, form, or nondisclosure agreement executed by any NSA employee, former NSA employee, or any other individual prior to the date of this notice.

These restrictions are consistent with and do not supersede, conflict with or otherwise alter the employee obligations, rights or liabilities created by Executive Order 12356; section 7211 of title 5, United States code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 *et seq.*) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosures that may compromise national security, including section 641, 793, 794, 798 and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive order and listed statutes are incorporated into this Agreement and are controlling.

Through this notice, all those persons who have executed or will execute NSA nondisclosure agreements prior to publication of this notice are advised that their continued access to classified information will be governed by the nondisclosure agreement they signed, and such nondisclosure agreements will be interpreted consistent with the new language. This new language is consistent with the provisions of previously executed nondisclosure forms, and nondisclosure agreements executed prior to the date of this notice remain fully valid and enforceable. This language in no way changes the substantive law with respect to the rights and obligations created by any nondisclosure agreements, but rather merely provides that those rights and obligations are to be read consistently with the Executive order and statutes identified in the new language.

Any person who executed a nondisclosure agreement prior to the publication of this notice does not need to execute a new agreement. However, he or she may elect to sign and substitute a new agreement, containing the prescribed language, for the previously signed agreement. Persons executing nondisclosure agreements in the future will sign statements containing the prescribed language. Relevant nondisclosure agreements, regulations and policies will be revised to include the new language

For the purposes of this notice, the terms "Secrecy Agreement" and "nondisclosure agreement" shall be interchangeable and shall apply to all agreements executed by those seeking access to classified information.

Dated: September 30, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-23877 Filed 10-3-91; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

Intent To prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Port of Seattle Container Terminal Development at the Former Lockheed Shipyard Site and Adjacent Properties (Southwest Harbor Project), Seattle, WA

LEAD AGENCIES: The following are joint lead agencies for the combined Federal and State EIS: Federal (NEPA): Seattle District, U.S. Army Corps of Engineers, Department of Defense; State (SEPA: Washington State Department of Ecology; Port of Seattle (Nominal Lead Agency).

ACTION: Notice of intent.

SUMMARY: The Port of Seattle is proposing redevelopment and cleanup of the former Lockheed Shipyard, Seattle Harbor, as a container shipping terminal. The Port anticipates that in-water activities will include as a minimum: Providing additional berthage on the West Waterway adjacent to Harbor Island, and related dredging and fill for a dock; remediation of affected contaminated sediments; and associated habitat restoration and public shoreline access. Redevelopment and cleanup of the former Lockheed Shipyard Number Two, and possibly the adjacent Wyckoff Company site, for the purpose of container shipping is likely to include between 135,000 and 360,000 cubic yards of dredging for navigational access, shoreline construction, and remediation of sediments. The dredging area is likely to include approximately 8.4 acres, including 1.2 to 2.0 acres of fill necessary for supporting and connecting the dock structure to the adjacent uplands and fish and wildlife habitat restoration. Inwater activities will require a Department of the Army permit under section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act. As a related and parallel action, the Washington State Department of Ecology plans to select a cleanup action plan for approximately thirty acres of historically contaminated sediments at the project site. The Port of Seattle is considering buying the adjacent property owned by the Wyckoff Company. The Port is examining a range of alternatives for container terminal development in the project area, including: (1) No action; (2) Combining upland areas with existing marine terminals; (3) Providing additional ship berthage on the West Waterway; and (4) Comprehensive redevelopment and cleanup of upland and adjacent aquatic areas.

POINTS-OF-CONTACT FOR FURTHER INFORMATION: Questions about the proposed action and DEIS can be answered by:

Dr. Stephen Martin, Planning Branch, Environmental Resources Section, Seattle District, U.S. Army Corps of Engineers, Seattle, Washington 98124-2255, Telephone (206) 764-3631

Ms. Glynis Carrosino, Toxics Cleanup Program, Washington State Department of Ecology, 3190 160th Avenue Southeast, Bellevue, Washington 98008, Telephone (206) 949-7263

Mr. George Blomberg, Port of Seattle, Pier 66, P.O. Box 1209, Seattle, Washington 98111, Telephone (206) 728-3194

SUPPLEMENTARY INFORMATION:

Proposed Action

In order to meet projected increases in container cargo volume in the Puget Sound area, the Port of Seattle requires additional container terminal berth and upland cargo facilities. Among the sites available for development of additional container terminal facilities is an area at the southwest corner of Elliott Bay, including the former Lockheed Shipyard

Number Two and possibly the adjacent Wyckoff Company site. This combined site, comprising approximately eighty acres of upland and aquatic area, has the potential to accomplish multiple economic redevelopment and environmental benefits at a single location. The Port of Seattle's goal for the proposal is to redevelop the Lockheed Shipyard Number Two property, and possibly the adjacent Wyckoff property in the southwest harbor area for container shipping facilities and to ensure necessary cleanup of site contamination. In redeveloping and cleaning up these properties, corollary objectives identified based on consultation with the public include:

1. Restoration of the site to a working waterfront that contributes to the regional maritime economy;
2. Comprehensive upland and aquatic area cleanup coincident with redevelopment;
3. Reservation and improvement of fish and wildlife habitat and public shoreline access in adjacent areas of the Duwamish estuary and Elliott Bay;
4. Additional opportunities for cleanup of contaminated sediments in the Duwamish River estuary.

To accomplish these objectives, the Port of Seattle anticipates that in-water activities will include as a minimum: Additional berthage on the West Waterway adjacent to Harbor Island; related dredging and fill for a dock; remediation of affected contaminated sediments; and, associated habitat restoration and public shoreline access.

The Washington State Department of Ecology also plans to select a cleanup action plan for approximately thirty acres of historically contaminated sediments at the project site. The Lockheed/Wyckoff area has been proposed as a potential site for container cargo development because of the site's location and physical attributes, and as a result of analysis of container terminal development needs conducted by the Port of Seattle during the past five years, including the Harbor Development Strategy and the recently published draft Container Terminal Development Plan. The site location at the southwest corner of Elliott Bay minimizes the amount of new project and subsequent maintenance dredging necessary for deep draft vessel access.

Alternatives

In addition to the "No Action" alternative, the alternatives evaluation will include analysis of a range of related elements in alternative combinations that provide progressively greater economic and environmental benefits. The final proposal may combine elements from different alternatives. The Port is examining a range of alternatives for container terminal development in the project area, including: (1) No action; (2) Combining upland areas with existing marine terminals; (3) Providing additional ship berthage on the West Waterway; and (4) Comprehensive redevelopment and cleanup of upland and adjacent aquatic areas. While the Port has not identified a preferred alternative, the range of alternatives to be addressed will be determined early in the scoping process.

Scoping and Public Involvement

Public involvement will be sought during the scoping and conduct of the study in accordance with NEPA/SEPA procedures. A public meeting/hearing will be held during public review of the draft EIS. Further meetings will be scheduled as needed. A public scoping process has been ongoing to clarify issues of major concern, identify studies that might be needed in order to analyze and evaluate impacts, and obtain public input on the range and acceptability of alternatives. Following Washington State SEPA procedures, the state and local joint lead agencies already initiated an expanded scoping process on June 19, 1991, including a Notice of Intent to Prepare an EIS, a Determination of Significance/Scoping Notice, newspaper notice, mailing to over 20,000 residents in the project area, direct invitations to community and environmental organizations, information packets, and an initial scoping meeting at Camp Long, West Seattle, July 2, 1991. The June 19, 1991 Notice stated that the scoping process would be expanded to include scoping under NEPA, if the Corps of Engineers became a joint lead agency and that a combined NEPA/SEPA scoping meeting would be held. This Notice of Intent formally commences the joint scoping process under NEPA. As part of the scoping process, all affected Federal, state, and local agencies, Indian Tribes, and other interested private organizations, including environmental interest groups, are invited to comment on the scope of the EIS as explained below. Comments are requested concerning project alternatives, mitigation measures, probable significant environmental impacts, and permits or other approvals that may be required.

To date, the following areas have been identified to be analyzed in depth in the draft EIS:

1. Water quality
2. Sediment quality
3. Fish and wildlife habitat restoration and enhancement
4. Clean-up of contaminated sites
5. Shoreline use
6. Recreation and public shoreline access
7. Transportation, noise, light, aesthetics, air quality, and other urban impacts

Analysis of water quality issues will include the effects of dredging and disposal of sediment and potential surface water discharges from site development during construction and operation of the facility. An important factor is consistency with Puget Sound Dredged Disposal Analysis (PSDDA) requirements. Measures for control and remediation of contaminated sediments will be presented and analyzed in light of recently adopted state sediment management standards and state toxic clean-up requirements. It is anticipated that the sediment clean-up plan for the project site will include the potential for receiving contaminated dredged material from other contaminated sites in the Duwamish Waterway. Control of surface water discharges will be analyzed for all actions required for site development and with respect to design of storm water systems and implementation of best management practices for long-term maintenance of water quality at the site. In addition, sediment quality issues and fish and wildlife restoration and enhancement actions will be presented and analyzed. Fish and wildlife mitigation will be analyzed with the objective of integrating increased habitat value through project habitat restoration and enhancement activities with aquatic area clean-up and public shoreline access. Also analyzed in the draft EIS will be any probable significant environmental effects associated with site clean-up, analysis of land use, public shoreline access, and urban impacts (including traffic, container terminal noise, and off-site glare). In addition, providing public shoreline access opportunities adjacent to intensive container cargo operations will be evaluated. Public access will be analyzed in context of public shoreline uses opportunities in Elliott Bay and the Duwamish Waterway with the intent to provide on-site public access with linkages to other existing and planned shoreline public use areas. Site-specific transportation impacts associated with the project will include analysis of the effects of terminal-related vehicle use on adjacent streets and arterial routes in nearby areas. Transportation benefits related to increased efficiency and the

use of on-dock intermodal rail facilities for transferring containers directly between rail and ship transport will also be evaluated. Relative to economics, a business and economic analyses of container terminal development at the project site will be prepared concurrently with the EIS. Economic review materials will focus on business factors and evaluate the need to expand container terminal facilities at the site. The environmental review process is designed to become comprehensive and to integrate the requirements and combine the documents needed under numerous Federal, state, and local environmental laws.

Scoping Meeting

A notice of the scoping meeting is being mailed via newsletter to all persons known to have an interest in this project. The scoping meeting will be held on October 16, 1991, at Camp Long, 5200 35th Avenue Southwest, Seattle, from 7 to 10 p.m. Comments will be accepted by telephone, at the scoping meeting, or in writing on or before October 28, 1991.

Availability of Draft EIS

The draft EIS is scheduled to be available for public review in June, 1992.

John O. Roach,

Department of the Army Liaison Officer with the Federal Register.

[FR Doc. 91–24148 Filed 10–3–91; 8:45 am]

BILLING CODE 3710–ER

DEPARTMENT OF EDUCATION

National Council on Education Standards and Testing; Meeting

AGENCY: National Council on Education Standards and Testing; Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of forthcoming meetings of the National Council on Education Standards and Testing. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE AND TIME: October 21, 1991; November 19, 1991; and December 16, 1991 from approximately 9:30 a.m. To 4:30 p.m.

ADDRESSES: The October 21 meeting will be held at the Rayburn House Office Building, room 2175, Washington, DC; November 19, location to be determined; December 16, location to be determined.

FOR FURTHER INFORMATION CONTACT: Elizabeth Barnes, 1850 M Street, NW., suite 1050, Washington, DC 20036. Telephone: (202) 632–1032.

SUPPLEMENTARY INFORMATION: The national Council on Education Standards and Testing is established under section 403 of the Education Council Act of 1991 (20 U.S.C. 1221–1 note). The Council is established to provide advice on whether suitable specific education standards should and can be established and whether an appropriate system of voluntary national tests or examinations should and can be established.

The meetings of the Council are open to the public. The proposed agenda for the October 21 meeting is likely to include a review of information gathered on standards and assessment. At the November 19 meeting, the Council may approve the assessment, standards and implementation sections of the report including standards setting for English, mathematics, history, geography and science. At the December 16 meeting, the Council may review a draft of its report.

Records are kept of all Council proceedings, and are available for public inspection at the Office of the Council, 1850 M Street, NW., suite 1050, Washington, DC 20036 from the hours of 10 a.m. to 4 p.m.

Dated: September 30, 1991.

Diane Ravitch,

Assistant Secretary, Educational Research and Improvement, U.S. Department of Education.

[FR Doc. 91–23963 Filed 10–3–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collections Under Review By the Office of Management and Budget

AGENCY: Energy Information Administration; Energy.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 et. seq.). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586–2171.

SUPPLEMENTARY INFORMATION:

1. Department of Commerce/Bureau of Economic Analysis (DOC/BEA), Department of Energy/Fossil Energy (DOE/FE); Department of Energy/Policy, Planning and Analysis (DOE/PE); and the Environmental Protection Agency (EPA).

2. EIA–767.

3. 0608–0054 (DOC/BEA), 1901–0298 (DOE/FE), 1901–0267 (DOE/PE), and 2080–0018 (EPA).

4. Steam-Electric Plant Operation and Design Report.

5. Revision—There is no change to the form. Sponsor burden hours are being

readjusted due to the FERC withdrawal as a sponsor.

6. Annually.

7. Mandatory.

8. State or local governments, businesses or other for profit, and Federal agencies or employees.

9. 893 respondents.

10. 1 response.

11. The estimated average hours per response for each of the respondents is 66.87 burden hours.

12. The estimated total reporting hours are 59,722.

13. Form EIA–767 collects data on steam-electric generating plants and related environmental data. Data are used by the BEA, EPA, DOE/PE, and DOE/FE in models and to evaluate compliance with the Clean Air Act. Steam-electric plants of 100 (MW) or more complete the entire form. Power plants between 10 (MW) and 100 (MW) report on flue gas desulfurization units and on page 6 of the form.

Statutory Authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. 93–275, Federal Energy Administration Act of 1974, 15 U.S.C 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, September 30, 1991.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 91–23970 Filed 10–3–91; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER91–596–000, et al.]

Florida Power Corp., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

September 27, 1991.

Take notice that the following filings have been made with the Commission:

1. Florida Power Corp.

[Docket No. ER91–596–000]

Take notice that on September 23, 1991, Florida Power Corporation amended the filing in this docket by submitting cost support "Exhibit H" in support of the daily capacity charge in Service Schedule B. Exhibit H, which was also submitted as part of the general annual cost adjustment data for interchange contracts filed in Docket ER91–426–000, is also being submitted separately in the captioned docket at the request of the Commission Staff.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. Texas-New Mexico Power Co.

[Docket No. ES91–51–000]

Take notice that on September 23, 1991, Texas-New Mexico Power Company filed an application with the Federal Energy Regulatory Commission pursuant to 204 of the Federal Power Act seeking authorization to issue up to $150 million of First Mortgage Bonds and for exemption from the Commission's competitive bidding requirements.

Comment date: October 9, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Orange and Rockland Utilities, Inc.

[Docket No. ER91–657–000]

Take notice that Orange and Rockland Utilities, Inc. (Orange and Rockland) on September 23, 1991, tendered for filing as a rate schedule an executed agreement dated December 1, 1990, between Orange and Rockland and New York Power Authority (Authority) for the sale of system capacity and/or energy by Orange and Rockland to Authority.

The rate schedule provides for an Orange and Rockland reservation charge not to exceed $14.87/MWh scheduled and an energy charge equal to Orange and Rockland's marginal system cost.

Orange and Rockland requests waiver of the notice requirements of § 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective December 1, 1990 in accordance with the anticipated utilization by the parties.

Orange and Rockland states that a copy of its filing was served on New York Power Authority.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. Montana-Dakota Utilities Co.

[Docket No. ER91–658–000]

Take notice that on September 23, 1991, Montana-Dakota Utilities Company (Montana-Dakota), a Division of MDU Resources Group, Inc., tendered for filing a request for authority to amend its current contract with the United States Department of Energy, Western Area Power Administration (Western) to permit certain short-term purchases of energy by Western during the 1991–1992 winter season.

Montana-Dakota requests waiver of the notice requirement of § 35.3 of the Commission's Regulations and that the amended contract be made effective as of September 30, 1991.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

5. The Dayton Power and Light Co.

[Docket No. ER91–660–000]

Take notice that the Dayton Power and Light Company (Dayton) tendered for filing on September 23, 1991, an executed Letter Agreement extending the term of the existing Purchase and Resale Agreement (Agreement) between Dayton and the Village of Waynesfield, Ohio (Village).

The proposed Letter Agreement extends the term of the existing Agreement to allow Village to continue to purchase energy requirements from third parties who will use their existing Interconnection Agreement Rate Schedules to deliver the energy requirements to Dayton for final delivery to Village. An October 1, 1991, effective date has been requested. A copy of this filing was served upon Village and The Public Utilities Commission of Ohio.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

6. The Northeast Utilities Service Co.

[Docket No. ER91–655–000]

Take notice that on September 20, 1991, Northeast Utilities Service Company ("NUSCO"), as agent for The Connecticut Light and Power Company and Western Massachusetts Electric Company (collectively referred to as the "NU Companies"), tendered for filing a Letter Agreement dated May 17, 1990, to temporarily increase the level of service being taken under an existing Transmission Service Agreement, between the NU Companies and Boston Edison Company ("BE").

NUSCO requests that the Commission waive its standard notice and filing requirements to the extent necessary to permit the temporary increase in service to become effective March 1, 1990.

NUSCO states that a copy of the rate schedule has been mailed to BE.

NUSCO further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

7. Puget Sound Power & Light Co.

[Docket No. ER91–659–000]

Take notice that on September 23, 1991, Puget Sound Power & Light Company ("Puget") tendered for filing the Eighth Amendment to an Exchange Agreement with The Washington Water Power Company ("WWP"). The Exchange Agreement provides for the exchange of steam-electric generation which, because of plant locations and

load area locations, results in substantial savings in both transmission service cost and in transfer losses. The savings resulting therefrom are shared equally by Puget and WWP under the terms of the Exchange Agreement.

The Eighth Amendment shows the calculation of estimated costs and benefits effective as of October 1, 1991. It is estimated that the equal sharing of benefits under the Exchange Agreement will result in payments by Puget to WWP of $2,089,776 during the twelve months following the proposed effective date.

Copies of the filing were served upon WWP.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Public Service Corp.

[Docket No. ER91–665–000]

Take notice that Wisconsin Public Service Corporation (WPSC) on September 24, 1991, tendered for filing an agreement relating to Consolidated Water Power Company's demand nominations under WPSC's W–3 tariff; and an agreement with Wisconsin Power and Light Company relating to the construction of substation facilities. WPSC requests that the Commission waive its notice requirements to allow the agreements to take effect in accordance with their terms.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

9. PacifiCorp Electric Operations

[Docket No. ER91–656–000]

Take notice that PacifiCorp Electric Operations (PacifiCorp), on September 20, 1991, tendered for filing an Interconnection Agreement (Agreement) between PacifiCorp Electric Operations (PacifiCorp) and Basin Electric Power Cooperative (Basin Electric) dated August 16, 1991.

Under terms of the Agreement, PacifiCorp and Basin Electric agree to operate their respective systems interconnected at the County Line Point of Interconnection and to provide Backup Service for outages on specified transmission lines of the parties' respective transmission systems.

PacifiCorp requests, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that an effective date of August 1, 1991 be assigned to the Agreement, this date being consistent with the effective date shown in the Agreement.

Copies of this filing were supplied to Basin Electric, the Public Utility Commission of Oregon and the Public Service Commission of Wyoming.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Co. of New Mexico

[Docket No. EC91–20–000]

Take notice that, pursuant to section 203 of the Federal Power Act, on September 24, 1991, Public Service Company of New Mexico ("PNM") filed an application seeking an Order or other appropriate determination approving the sale by PNM to the City of Anaheim, California ("Anaheim") of a 10.04% undivided ownership interest in a PNM Main Power Transformer (step-up transformer) associated with San Juan Generating Station Unit 4, located in San Juan County, New Mexico.

Copies of this filing have been served upon Anaheim and the New Mexico Public Service Commission.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

11. Maine Electric Power Co.

[Docket No. ER91–663–000]

Take notice that on September 24, 1991, Maine Electric Power Company ("MEPCO"), tendered to the Federal Energy Regulatory Commission ("Commission") for filing the following power purchase agreements and notices of termination in the above-referenced docket:

1. Power Purchase Agreement between Maine Electric Power Company and Bangor Hydro Electric Company, effective as of November 1, 1987 (the "BHE Agreement"); Notice of Termination, effective October 31, 1988;

2. Power Purchase Agreement between Maine Electric Power Company and Central Maine Power Company, effective as of November 1, 1987 (the "CMP 1987 Agreement"); Notice of Termination, effective October 31, 1988; and

3. Power Purchase Agreement between Maine Electric Power Company and Central Maine Power Company, effective as of November 1, 1989 (the "CMP 1989 Agreement"); Notice of Termination, effective November 30, 1989.

MEPCO has requested that the Commission waive its notice and filing requirements to permit each of the agreements and notices of termination to become effective in accordance with their terms.

MEPCO has served copies of the filing on the affected customers and on the Maine Public Utilities Commission.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

12. Iowa-Illinois Gas and Electric Co.

[Docket No. ER91–664–000]

Take notice that Iowa-Illinois Gas and Electric Company (Iowa-Illinois), 206 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, on September 24, 1991, tendered for filing pursuant to § 35.13 of the Regulations under the Federal Power Act a rate schedule change in the form of a First Amendment dated August 13, 1991 to Interchange Agreement (the Agreement) dated November 22, 1985, between Iowa-Illinois and Illinois Municipal Electric Agency (IMEA).

Iowa-Illinois states the Agreement applies only to transactions between Iowa-Illinois and IMEA. The first Amendment revises the Demand Charge for Short Term Firm Power furnished under Service Schedule G by providing a rate which is up to 30 cents per day when reserved on a daily basis or up to $1.80 per week when reserved on a weekly basis, per kilowatt, for the power reserved. The Agreement prior to the First Amendment provided a Demand Charge of 30 cents per day when reserved on a daily basis or $1.80 per week when reserved on a weekly basis, per kilowatt, for the power reserved.

Iowa-Illinois proposes the rate schedule change to be effective retroactively on July 1, 1991 and requests waiver of the Commission's 60-day notice requirement pursuant to 18 CFR 35.11.

Copies of the filing were served upon the Illinois Commerce Commission, the Iowa Utilities Board and IMEA.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

13. Central Maine Power Co.

[Docket No. ER91–666–000]

Take notice that on September 24, 1991, Central Maine Power Company ("CMP"), tendered for filing the following rate schedule in the above-referenced docket:

Amendment to Transmission Service Agreement ("Amendment") between Central Maine Power Company and Commonwealth Electric Company ("COMMELEC"), dated as of June 1, 1991.

This filing amends the Transmission Service Agreement between CMP and COMMELEC, dated November 1, 1988, (CMP Rate Schedule FERC No. 84) filed with the Commission by CMP on May 11, 1990, by reducing the rate for the

transmission furnished to COMMELEC from $15.02 per kW-yr to $10.22 per kW-yr for the period June 1, 1991, through October 31, 1991.

CMP request that the Commission waive its notice and filing requirements to permit the Amendment to become effective as of June 1, 1991, in accordance with its terms.

In addition, CMP has tendered for filing a Notice of Termination, effective October 31, 1991, pertaining to the November, 1988 Transmission Service Agreement, as amended. CMP requests that the Commission waive its notice and filing requirements to permit the Notice of Termination to become effective October 31, 1991.

CMP has served a copy of the filing on the affected customer and on the Maine Public Utilities Commission.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

14. Allegheny Power Service Corporation on Behalf of Monongahela Power Co., et al, The Potomac Edison Company, West Penn Power Company

[Docket No. ER91-189-000]

Take notice that on September 24, 1991, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company ("the APS Companies"), filed a third amendment to the initial rate filing of December 31, 1990, for a Standard Transmission Service Rate Schedule to provide for transmission service through the facilities of the APS Companies. The proposed effective date for the rate schedule is December 31, 1990.

Copies of the initial filing and the amended filings have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Commission.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

15. Chevron USA Inc.

[Docket No. QF85-703-001]

On September 16, 1991, Chevron USA Incorporated tendered for filing an amendment to its filing in this docket.

The amendment primarily supplements information pertaining to the ownership structure of the facility.

Comment date: October 17, 1991, in accordance with Standard Paragraph E at the end of this notice.

16. Southern Company Services, Inc.

[Docket No. ER91-661-000]

Take notice that on September 23, 1991, Southern Company Services, Inc. ("SCS"), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company ("Southern Companies"), tendered for filing an Amendment dated September 17, 1991 to the Amended and Restated Unit Power Sales Agreement among Jacksonville Electric Authority ("JEA"), Southern Companies, and SCS dated May 19, 1982. The Amendment is proposed to become effective as of April 1, 1991.

The Amendment allows JEA to bank energy (up to 50 MW per hour) that it is unable to receive due to transmission limitations in the State of Florida. The energy may be scheduled from the bank under the rates, terms and conditions applicable to UPS Replacement Energy under the Interchange Contract among JEA, Southern Companies and SCS.

Comment date: October 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

17. Chevron U.S.A. Inc.

[Docket No. QF85-703-001]

On September 5, 1991, Chevron U.S.A. Inc. tendered for filing an amendment to its filing in this docket.

The amendment provides answers to questions asked by the Commission's staff.

Replace the term "two extraction/condensing" with "one backpressure" in the first sentence of the third paragraph of the notice which was published in this docket on August 7, 1991, (see 56 FR 37534 (1991)).

Comment date: October 17, 1991, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-23907 Filed 10-3-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-3166-000, et al.]

Trunkline Gas Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Co.

[Docket No. CP91-3166-000]

September 26, 1991.

Take notice that on September 20, 1991, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP91-3166-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain transportation services provided to NOMECO Oil & Gas Company (NOMECO), formerly Northern Michigan Exploration Company, and performed pursuant to authorization received in Docket No. CP75-3-000, all as more fully set forth in the application on file with the Commission and open to public inspection.

Trunkline proposes to abandon a two-part transportation service provided to NOMECO pursuant to two firm transportation agreements, both dated June 12, 1974, and amended December 8, 1977. Trunkline states that these agreements are on file with the Commission as Rate Schedules T-33 and T-34 of Trunkline's FERC Gas Tariff, Original Volume No. 2, and that Trunkline transports natural gas for NOMECO from Vermilion Area Block 320/321, East Cameron Block 338, and West Cameron Block 639, Offshore Louisiana, for redelivery at Elkhart, Indiana. Trunkline further states that pursuant to a letter agreement dated November 20, 1990, Trunkline and NOMECO have agreed to terminate these agreements effective December 1, 1991. Trunkline requests authorization to abandon the service performed under Rate Schedules T-33 and T-34 effective December 1, 1991.

Trunkline advises that there would be no abandonment of facilities as a result of the proposal.

Comment date: October 17, 1991, in accordance with Standard Paragraph F at the end of the notice.

2. United Gas Pipe Line Co.

[Docket No. CP91–3126–000]

September 26, 1991.

Take notice that on September 18, 1991, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP91–3126–000 a request pursuant to § 157.205 of the Commission's Regulations to construct a sales tap at a point in St. James Parish, Louisiana to transport natural gas for Shell Gas Trading (Shell) to be delivered to the Kaiser Aluminum plant (Kaiser) in St. James Parish, Louisiana under United's blanket certificate issued in Docket No. CP82–430–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to construct and operate a ten-inch delivery tap, 7,300 feet of 10-inch pipeline and related facilities to transport on an interruptible basis for Shell an estimated maximum volume of 45,000 Mcf per day of natural gas on the 18-inch Baton Rouge-New Orleans Pipeline in St. James Parish, Louisiana. United states that United and Shell would execute a new interruptible transportation agreement containing the proposed delivery point to provide transportation service for Shell for delivery to Kaiser pursuant to United's blanket certificate authorization under United's Rate Schedule ITS prior to the commencement of service. United indicates that it would construct a 10-inch tap and approximately 100 feet of 10-inch pipeline for the delivery of the gas to Kaiser, to be owned and operated by Kaiser, downstream of United's proposed meter station in Kaiser's plant yard. United states the proposed tap would not have an impact on United's curtailment plan since interruptible transportation service is being provided pursuant to United's blanket certificate. United states that Shell would reimburse United for the cost of the facilities which is estimated to be $756,500.

Comment date: November 12, 1991, in accordance with Standard Paragraph G at the end of this notice.

3. Natural Gas Pipeline Co. of America

[Docket No. CP91–3099–000]

September 26, 1991.

Take notice that on September 16, 1991, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP91–3099–000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon, effective May 16, 1991, transportation service for Tennessee Gas Pipeline Company (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural states that by Commission order issued May 19, 1982, in Docket No. CP82–50–000, as amended, it is authorized to transport for Tennessee on a firm basis 50,000 MMBtu of natural gas volumes. Natural also states that pursuant to a gas transportation agreement between Natural and Tennessee dated October 20, 1981, as amended, it receives up to 50,000 MMBtu of natural gas per day for the account of Tennessee in Beckham, Caddo, Custer, Dewey, Woodward, Grady, Washita, and Stephens Counties, Oklahoma and Clark County, Kansas and redelivered gas in Cameron Parish, Louisiana and in Custer County, Oklahoma.

It is further stated that pursuant to a termination agreement dated May 15, 1991, Natural and Tennessee agreed to terminate the agreement effective May 16, 1991, thereby terminating the agreement prior to the expiration of the primary term. It is also indicated that Natural has agreed to waive the minimum six months written notice requirement as stated in the service agreement. Natural further states that no facilities are proposed to be abandoned.

Comment date: October 17, 1991, in accordance with Standard Paragraph F at the end of this notice.

4. United Gas Pipe Line Co.

[Docket No. CP91–3125–000]

September 26, 1991.

Take notice that on September 18, 1991, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No CP91–3125–000 a request pursuant to § 157.205 of the Commission's Regulations for permission and approval to abandon certain pipeline facilities located in Jackson County, Texas under United's blanket certificate issued in Docket No. CP82–430–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to abandon approximately 4.11 miles of the Edna Field 6-inch line located in Jackson County, Texas. United proposes to abandon approximately 1.42 miles of the pipeline by removal at the request of property owners and for safety reasons. United states that the remaining 2.69 miles of pipeline would be abandoned in place. United indicates that the section of pipeline to be abandoned was used to serve one customer who has discontinued service over a year ago and has another source of gas service. Therefore, this abandonment would not result in the loss of service for any of United's current customers, it is stated.

United states that the cost to abandon these facilities is approximately $38,400.

Comment date: November 12, 1991, in accordance with Standard Paragraph G at the end of this notice.

5. Panhandle Eastern Pipe Line Co.

[Docket Nos. CP91–3158–000, CP91–3159–000, CP91–3160–000]

September 26, 1991.

The notice that Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77251–1642, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP86–585–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: November 12, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual dt	Receipt [1] points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-3158-000 (9-20-91)	McLeod Farms, Inc. (End user).	150 150 54,750	OK	TX	7-25-91, PT, Interruptible.	ST91-10099, 8-1-91
CP91-3159-000 (9-20-91)	McLeod Farms, Inc. (End user).	40 40 14,600	OK	TX	7-25-91, PT, Interruptible.	ST91-10098, 8-1-91
CP91-3160-000 (9-20-91)	Bowling Green Company (LDC).	2,600 2,600 949,000	KS	MO	4-1-89, SCT, Firm	ST91-10161. 8-1-91

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

6. ANR Pipeline Co., et al, Tennessee Gas Pipeline Co., ANR Pipeline Co., Algonquin Gas Transmission Co.

[Docket Nos. CP91-3193-000,[2] CP91-3194-000, CP91-3195-000, CP91-3201-000]

September 26, 1991.

Take notice that the above referenced companies (Applicants) filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by the Applicants and is included in the attached appendix.

The Applicants also state that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: November 12, 1991, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notices requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day,[2] Avg. annual	Points of [3]		Start up date, rate schedule	Related [1] dockets
				Receipt	Delivery		
CP91-3193-000 (9-24-91)	ANR Pipeline Co., 500 Renaissance Center, Detroit MI 48243.	Bishop Pipeline Corp.	100,000 100,000 36,500,000	LA, OK, KS, TX, OTX, WI, OLA.	IN	08-06-91, ITS, Interruptible.	ST91-10204-000 CP88-532-000
CP91-3194-000 (9-24-91)	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77252.	Commonwealth Gas Co.	10,000 10,000 3,650,000	OLA	MA	09-02-91, FT-A, Firm.	ST91-10390-000 CP87-115-000
CP91-3195-000 (9-24-91)	ANR Pipeline Co., 500 Renaissance Center, Detroit, MI 48243.	NGC Transportation Inc.	100,000 100,000 36,500,000	OTX, TX, OLA, WI	LA	08-10-91, ITS, Interruptible.	ST91-10199-000 CP88-532-000
CP91-3201-000 (9-24-91)	Algonquin Gas Transmission Co., 1284 Soldiers Field Road, Boston MA.	Entrade Corp.	200,000 200,000 73,000,000	NJ, MA	CT	08-06-91, AIT-1, Interruptible.	ST91-10308-000 CP 89-948-000

[1] The CP and RP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.
[2] Quantities are shown in dt for ANR and Tennessee; and in MMBtu for Algonquin.
[3] Offshore Louisiana and Offshore Texas are shown as OLA and OTX, respectively.

7. Trunkline Gas Co.

[Docket No. CP91-3165-000]

September 26, 1991.

Take notice that on September 20, 1991, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP91-3165-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain transportation services provided to Chevron U.S.A. (Chevron) and performed pursuant to authorization received in Docket No. CP77-52-000, all as more fully set forth in the application on file with the Commission and open to public inspection.

Trunkline proposes to abandon a two-part transportation service provided to Chevron pursuant to two firm transportation agreements dated September 24, 1976. Trunkline states that these agreements are on file with the Commission as Rate Schedules T-25 and T-26 of Trunkline's FERC Gas Tariff, Original Volume No. 2, and that Trunkline provides transportation service for Chevron between Vermilion Area Block 23, Offshore Louisiana, and points of interconnection between Trunkline and Texas Eastern Transmission Corporation in Allen and Beauregard Parishes, Louisiana. Trunkline further states that pursuant to a letter agreement dated June 27, 1990, Trunkline and Chevron have agreed to

terminate these agreements effective November 15, 1989. Trunkline requests authorization to abandon the service performed under Rate Schedules T–25 and T–26 effective November 15, 1989.

Trunkline advises that there would be no abandonment of facilities as a result of the proposal.

Comment date: October 17, 1991, in accordance with Standard Paragraph F at the end of the notice.

8. Northern Natural Gas Co.

[Docket No. CP91–3202–000]

September 27, 1991.

Take notice that on September 25, 1991, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP91–3202–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to upgrade an existing delivery point to accommodate natural gas deliveries to Northern Minnesota Utilities (Northern Minnesota) for use in the community of Aitkin, Minnesota, under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to upgrade its existing Deerwood No. 1 town border station, located in Crow Wing County, Minnesota, in order to accommodate natural gas deliveries to Northern Minnesota under Northern's CD–1 and FT–1 Rate Schedules for redelivery in Minnesota. It is stated that Northern Minnesota has requested an upgrade of this delivery point due to the expansion of its distribution system into new areas, and specifically to serve the community of Aitkin, Minnesota, which is currently without gas service.

Northern states that the proposed deliveries to Northern Minnesota would be served from currently assigned total firm entitlements. Northern further states that the estimated volumes proposed to be delivered to Northern Minnesota is expected to result in an increase in Northern's peak day deliveries to 770 Mcf (from 219 Mcf) and annual deliveries to 139,500 Mcf (from 39,727 Mcf).

It is estimated that the total cost to upgrade the facility would be $16,000.

Comment date: November 12, 1991, in accordance with Standard Paragraph G at the end of this notice.

9. ANR Pipeline Co.

Docket Nos. CP91–3170–000,[3] CP91–3171–000, CP91–3172–000, CP91–3173–000, CP91–3174–000].

September 27, 1991.

Take notice that on September 20, 1991, ANR Pipeline Company (ANR Pipeline), 500 Renaissance Center, Detroit, Michigan 48243, filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88–532–000 pursuant to section 7 of the Natural Gas Act, all as more fully set fourth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the date of the transportation agreement between ANR Pipeline and the respective shipper, function of the shipper, i.e., marketer, producer, end-user, etc., the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket number and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by ANR Pipeline and is included in the attached appendix.

ANR Pipeline alleges that it would provide the proposed service for each shipper under an executed gas transportation agreement and would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: November 12, 1991, in accordance with Standard Paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated.

Docket No. Tran. Agr. Date	Shipper name	Shipper's function	Peak day [1] Avg, Annual	Points of—		Start up date, rate schedule, service type	Related [2] dockets
				Receipt	Delivery		
CP91–3170–000 8–31–90	Semco Energy Services, Inc.	Marketer	30,000 30,000 10,950,000	Various existing points.	MI	8–1–91, ITS, Interruptible.	ST91–10206–000
CP91–3171–000 10–15–90	KN Gas Marketing, Inc.	Marketer	150,000 150,500 54,750,000	Various existing points.	WI&IN	8–2–91, ITS, Interruptible.	ST91–10210–000
CP91–3172–000 6–3–91	Bishop Pipeline Corp.	Marketer	10,000 10,000 3,650,000	Various existing points.	IL	8–1–91, ITS, Interruptible.	ST91–10208–000
CP91–3173–000 7–17–91	BHP Petroleum (Americas) Inc.	Marketer	30,000 30,000 10,950,000	WY	WY	8–1–91, ITS, Interruptible.	ST91–10209–000
CP91–3174–000 8–2–90	BASF Corp	End-user	8,500 8,500 3,102,500	MI&WI	MI	8–5–91, ITS, Interruptible.	ST91–10201–000

[1] Quantities are shown in Dth.
[2] The ST docket indicates that 120-day transportation service was initiated under Section 284.223(a) of the Commission's Regulations.

10. Trunkline Gas Co.

[Docket No. CP91–3127–000]

September 27, 1991.

Take notice that on September 18, 1991, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP91–3127–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon transportation service provided to Transcontinental Gas Pipe Line (Transco), in Docket No. CP77–249, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline specifically requests authority to abandon transportation

service provided in Transco pursuant to a transportation agreement dated November 11, 1976, as amended May 27, 1982. Trunkline states that pursuant to this agreement, Rate Schedule T–22 of Trunkline's FERC Gas Tariff, Original Volume No. 2, Trunkline provides firm and interruptible transportation service for Transco from the Vermilion Block 14 field gas unit, Offshore Louisiana, for redelivery to Trunkline's point of interconnection with Transco's facilities near Ragley in Beauregard Parish, Louisiana. Trunkline indicates that pursuant to a letter dated June 27, 1990, Transco notified Trunkline of its desire to terminate this agreement. Trunkline requests authority to abandon Rate Schedule T–22 effective July 2, 1991. No facilities are proposed to be abandoned herein.

Comment date: October 18, 1991, in accordance with Standard Paragraph F at the end of this notice.

11. Transcontinental Gas Pipe Line Corp.

[Docket No. CP91–3152–000]

September 27, 1991.

Take notice that on September 20, 1991, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP91–3152–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport natural gas on behalf of Fina Natural Gas Company (Fina) under the authorization issued in Docket No. CP88–328–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.

Transco would perform the proposed interruptible transportation service for Fina, a marketer of natural gas, pursuant to a Service Agreement dated July 16, 1991 (System Contract 000.5073). The term of the transportation service is from July 16, 1991, and shall remain in force and effect through August 15, 1991, and thereafter until terminated by Transco or Fina upon at least thirty days written notice to the other specifying a termination date. Transco proposes to transport on a peak day up to 525,000 Dth; on an average day up to 50,000 Dth; and on an annual basis up to 18,250,000 Dth of natural gas for Fina. Transco states that it would receive the gas at receipt points offshore in Louisiana and Texas and onshore in Texas, Louisiana, Mississippi, Alabama, New Jersey, Maryland, Virginia, Georgia, North Carolina, and Pennsylvania. Transco would deliver the gas to existing delivery points in Louisiana and Texas. It is alleged that the rate to be charged Fina for the proposed transportation service shall be accordance with Transco's Rate Schedule IT. Transco avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's regulations. Transco commenced such self-implementing service on August 1, 1991, as reported in Docket No. ST91–10284–000.

Comment date: November 12, 1991, in accordance with Standard Paragraph G at the end of this notice.

12. United Gas Pipe Line Co.

[Docket No. CP91–3168–000]

September 27, 1991.

Take notice that on September 20, 1991, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP91–3168–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport natural gas on firm basis on behalf of Champion International Corp. (Champion) under the authorization issued in Docket No. CP88–6–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.

United would perform the proposed transportation service for Champion, an end user of natural gas, pursuant to a Firm Gas Transportation Service Agreement dated August 1, 1991 (Master Contract Number 7520). The Service Agreement is effective from August 1, 1991, for a primary term of one month from the date of first delivery and shall continue for successive one month terms thereafter until terminated at any time upon written notice by either party. United proposes to transport on a peak day up to 2,168 MMBtu; on an average day up to 2,168 MMBtu; and on an annual basis up to 791,320 MMBtu of natural gas for Champion. United states that it would receive the gas at receipt points in Terrbonne Parish, Louisiana deliver the gas to delivery points in Escambia County, Florida and Terrebonne Parish, Louisiana. It is alleged the rate to be charged Champion for the proposed transportation service shall be accordance with United's Rate Schedule FTS. United avers that construction of faciities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's regulations. United commenced such self-implementing service on August 15, 1991, as reported in Docket No. ST91–9975–000.

Comment date: November 12, 1991, in accordance with Standard Paragraph G at the end of this notice.

13. United Gas Pipe Line Co.

[Docket No. CP91–3196–000, CP91–3197–000, CP91–3199–000, CP91–3200–000]

September 27, 1991.

Take notice that on September 24, 1991, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP88–6–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection. [4]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by United and is summarized in the attached appendix.

Comment date: November 12, 1991, in accordance with Standard Paragraph G at the end of this notice.

[4] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-3196-000 (9-24-91)	Crescent Gas Corp. (Intrastate Pipeline).	5,240 5,240 1,912,600	LA	MS	5-23-91, ITS, Interruptible.	ST91-10345-000 8-26-91
CP91-3197-000 (9-24-91)	Centran Corp. (marketer).	20,960 20,960 7,650,400	LA, MS	LA, TX, FL, MS	11-07-90,[1] ITS, Interruptible.	ST91-10373-000 9-5-91
CP91-3199-000 (9-24-91)	Fina Natural Gas Co. (producer).	104,800 104,800 38,252,000	LA, TX, MS, Off LA	LA, TX, AL, FL, MS	3-28-90,[2] ITS, Interruptible.	ST91-10347-000 8-21-91
CP91-3200-000 (9-24-91)	Eagle Natural Gas Co. (marketer).	26,200 26,200 9,563,000	LA, TX, MS, AL	LA, MS	12-15-88,[3] ITS, Interruptible.	ST91-10374-000 9-4-91

[1] Amended November 19, 1990.
[2] Amended July 22, 1991.
[3] Amended August 21, 1991.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest if filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 91-23908 Filed 10-3-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ92-1-1-002 and TM92-1-1-002]

Alabama-Tennessee Natural Gas Co.; Notice of Proposed PGA Rate Adjustment

September 27, 1991

Take notice that on September 25, 1991, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama 35631, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet:

Second Substitute Twenty Seventh Revised Sheet No. 4

The tariff sheet is proposed to become effective October 1, 1991. Alabama-Tennessee states that the purpose of this filing is to make certain computational corrections to its filing made in the above-captioned docket on September 9, 1991, to conform to the rates of its suppliers. Alabama-Tennessee further states that this filing is being made in order to adjust its rates and to reflect the Commission's Annual Charge Adjustment (ACA) effective on October 1, 1991.

Alabama-Tennessee has requested any necessary waivers of the Commission's Regulations in order to permit the tariff sheet to become effective as proposed.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional sales and transportation customers and affected State Regulatory Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before October 4, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-23899 Filed 10-3-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP90-2282-003]

Bayou Interstate Pipeline System; Compliance Filing

September 27, 1991.

Take notice that Bayou Interstate Pipeline System (Bayou) on September 4, 1991, pursuant to the requirements of Ordering Paragraphs (F) and (G) of the Order Approving Abandonment and Issuing Certificate issued by the Commission on June 6, 1991, tendered for filing its reconciliation of PGA

Account No. 191 for the period from April 1, 1990 through June 30, 1991.

Bayou states that a copy of the filing has been mailed to Bayou's sole jurisdictional customer.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before October 4, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–23906 Filed 10–3–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–222–001]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

September 27, 1991

Take notice that CNG Transmission Corporation ("CNG"), on September 19, 1991, pursuant to section 4 of the Natural Gas Act, part 154 and § 2.104 of the Commission's Regulations, Order Nos. 500 and 528, as amended, and §§ 12.9 and 12.10 of the General Terms and Conditions of CNG's FERC Gas Tariff, filed the following tariff sheets to its First Revised Volume No. 1 of CNG's FERC Gas Tariff:

Twelfth Revised Sheet No. 31
Sixth Revised Sheet No. 32
Seventh Revised Sheet No. 34
Fourth Revised Sheet No. 35
Third Revised Sheet No. 38
Fifth Revised Sheet No. 45

Take further notice that on September 19, 1991, CNG withdrew all of the listed tariff sheets, except for Fifth Revised Sheet No. 45.

CNG states that the purpose of Fifth Revised Sheet No. 45 is to track Transcontinental Gas Pipe Line Coporation's elimination of the Fixed and Commodity Litigant Producer Settlement Payment ("LPSP").

CNG states that copies of the filing were served upon CNG's customers as well as interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before October 4, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell

Secretary.

[FR Doc. 91–23902 Filed 10–3–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP91–161–000 and RP91–160–000]

Columbia Gas Transmission Corp.; Informal Settlement Conference

September 27, 1991.

Take notice that an informal conference will be convened in this proceeding on Wednesday, October 9 and Thursday, October 10, 1991, at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

At the conference parties and Staff will explore and address the matter of a restricted service list and prepare a list in accordance with the Presiding Judge's order issued September 17, 1991. Accordingly, parties are to submit to Staff counsel Hollis J. Alpert on or before October 9, 1991 their name and address, consistent with that order. In addition, at the conference the participants will address proposals for an appropriate trial schedule as well as other matters described in the Presiding Judge's Order Convening Prehearing Conference issued July 30, 1991.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Hollis J. Alpert at (202) 208–1093, or David R. Cain at (202) 208–0917.

Lois D. Cashell,

Secretary.

[FR Doc. 91–23903 Filed 10–3–91; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2256–001 Wisconsin]

Consolidated Water Power Co.; Notice Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

September 27, 1991.

The license for the Wisconsin Rapids Project No. 2256, located on the Wisconsin River, Wood County, Wisconsin, expires on July 31, 1993. The statutory deadline for filing an application for new license was July 31, 1991. An application for new license has been filed as follows:

Project No.	Applicant	Contact
2256–001	Consolidated Water Power Company, 231 First Avenue North, P.O. Box 8050, Wisconsin Rapids, WI 54495.	Mr. Kenneth K. Knapp, Consolidated Water Power Company, 231 First Avenue North, P.O. Box 8050, Wisconsin Rapids, WI 54495, (715) 422–5073.

The following is an approximate schedule and procedures that will be followed in processing the application:

Date	Action
September 20, 1991.	Commission notifies applicant that its application has been accepted.
October 1, 1991	Commission issues public notice of the accepted application establishing dates for filing motions to intervene and protests.
December 1, 1991.	Commission's deadline for applicant for filing a final amendment, if any, to its application.

Upon receipt of any additional information and any information filed in response to the public notices of the application, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Michael Dees at 202–219–2807.

Lois D. Cashell,

Secretary.

[FR Doc. 91–23905 Filed 10–3–91; 8:45 am]

BILLING CODE 6717–01–M

Docket No. TA92-2-23-000

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 27, 1991.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on September 25 1991 certain revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff. The proposed effective date of the tariff sheets is November 1, 1991.

By letter order dated September 10, 1991 in Docket No. TA92-1-23-000 the Commission requested ESNG's tariff sheets as filed on August 29, 1991 be refiled. Such filing was rejected under § 385.2001(b) of the Commission's regulations as the Commission could not recreate a paper version of ESNG's Schedule A1, and further, a left margin of four (4) spaces occurred in ESNG's C101, C102 and C201 files.

As previously detailed in ESNG's August 29, 1991 filing the above referenced tariff sheets are part of ESNG's Annual PGA and are tendered for effectiveness on November 1, 1991, as required by section 21 of the General Terms and Conditions of ESNG's FERC Gas Tariff.

ESNG states the filing is its Annual PGA filing pursuant to § 154.305 of the Commission's regulations and § 21 of its FERC Gas Tariff, First Revised Volume No. 1. The effect of the filing is to increase commodity rates, by $0.7191 per dt and no change in the demand rates over ESNG s rates established in its Quarterly PGA filing, Docket No. TQ91-3-23-000 et al., effective August 1, 1991. Other rates also change correspondingly.

ESNG states that the projected commodity and demand costs have been developed using a best estimate of available gas supply to meet its anticipated purchase requirements. Such projections reflect the continued implementation of ESNG's Stipulation and Agreement in Docket Nos. RP89-164-000 and 001, and more specifically Article II (as amended) thereof, which perits ESNG to include in its PGA calculations transportation-related (Account No. 858) costs.

ESNG states its filing also contains the calculations of its new surcharge adjustments which reflect the amortization of the respective commodity and demand current deferral balances accumulated during the period July 1, 1990 through June 30, 1991 over the twelve month period commencing November 1, 1991.

ESNG states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 17, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-23900 Filed 10-3-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-5-23-001]

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 27, 1991.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on September 25, 1991 certain revised tariff sheet included in appendix A attached to the filing. Such tariff sheet bears a proposed effective date of August 1, 1991.

By letter order dated September 11, 1991 in Docket Nos. TM91-5-23-000, et. al. and GT91-35-000, et. al., the Commission requested ESNG revise the terms and conditions of its tariff to properly set forth the new methodology for determining the Rate Schedule PS rates. The new methodology has ESNG basing its Rate Schedule PS-1 demand charge on Transcontinental Gas Pipe Line Corporation's (Transco) Rate Schedule FT rates pursuant to settlement approval in Transco's Docket No. CP88-391-004, et. al.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before October 4, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-23904 Filed 10-3-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-208-002]

Ozark Gas Transmission System; Proposed Change in FERC Gas Tariff

September 27, 1991.

Take notice that Ozark Gas Transmission System ("Ozark") on September 23, 1991, tendered for filing the following revised tariff sheets in its FERC Gas Tariff, First Revised Volume No. 1:

Substitute Original Sheet No. 13
Substitute Original Sheet No. 15
Substitute Original Sheet No. 19
Substitute Original Sheet No. 28
Substitute Original Sheet No. 41
Substitute Original Sheet No. 42
Substitute Original Sheet No. 43
Original Sheet No. 43A
Original Sheet No. 43B
Substitute Original Sheet No. 55
Substitute Original Sheet No. 85
Original Sheet No. 85A
Original Sheet No. 85B
Substitute Original Sheet No. 87
Substitute Original Sheet No. 89
Substitute Original Sheet No. 91
Substitute Original Sheet No. 93
Substitute Original Sheet No. 94
Substitute Original Sheet No. 95
Substitute Original Sheet No. 96
Substitute Original Sheet No. 97
Substitute Original Sheet No. 98
Substitute Original Sheet No. 104
Substitute Original Sheet No. 105
Substitute Original Sheet No. 106
Substitute Original Sheet No. 109
Substitute Original Sheet No. 113
Substitute Original Sheet No. 120
Original Sheet No. 120A
Original Sheet No. 120B
Original Sheet No. 120C
Substitute Original Sheet No. 121
Substitute Original Sheet No. 123
Substitute Original Sheet No. 126
Substitute Original Sheet No. 127
Substitute Original Sheet No. 128
Substitute Original Sheet No. 129
Substitute Original Sheet No. 130
Substitute Original Sheet No. 131
Substitute Original Sheet No. 132
Substitute Original Sheet No. 133
Substitute Original Sheet No. 134
Substitute Original Sheet No. 137
Substitute Original Sheet No. 139
Substitute Original Sheet No. 140
Substitute Original Sheet No. 141
Substitute Original Sheet No. 151
Substitute Original Sheet No. 155

Ozark states that the purpose of this filing is to comply with the order issued by the Commission in the referenced dockets on September 6, 1991. The proposed effective date is October l, 1991. Ozark states that copies of the filing were served upon its jurisdictional customers and all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before October 4, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are availale for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–23901 Filed 10–3–91; 8:45 am]

BILLING CODE 6717–01–M

Southeastern Power Administration

Order Confirming and Approving Power Rates on an Interim Basis; Correction

In the notice document published in the **Federal Register** of Friday, September 13, 1991 (56 FR 46611), the date of signature appearing in the first column on page 46612 should read August 28, 1991.

J. Michael Davis,

P.E., Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 91–23969 Filed 10–3–91; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–4019–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 16, 1991 through September 20, 1991 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 5, 1991 (56 FR 14096).

Draft EISs

ERP No. D-BLM-G02000-NM Rating E02, Albuquerque District Resource Management Plan (RMP) Amendment, Oil and Gas Leasing and Development, Farmington, Rio Puerco and Taos Resource Areas, Implementation, Several Counties, NM.

Summary: EPA believes the DEIS does not contain sufficient information to fully assess the potentially significant impacts of the proposal. EPA believes that by excluding the impacts from methane migration, produced water disposal, and hazardous materials from the EIS, the assessment of this proposal is incomplete.

ERP No. D–CDB–C80012–NY Rating LO, City of Rochester School No. 25 and School No. 36 Replacement, CDBG, Rochester, Monroe County, NY.

Summary: EPA has no objections to the proposed project.

EPR No. D–CDB–C80019–NY Rating EC2, Northeast Middle School project Construction and Operation, Site Approval and CDB Grant, City of Rochester, Monroe County, NY.

Summary: EPA expressed environmental concerns due to the potential to encounter contamination at the project site. EPA recommended that additional information be provided in the final EIS to address this issue.

ERP No. D–NOA–L91007–AK Rating EC2, Halibut Fisheries Proposed Individual Fishing Quota Management Alternatives Plan, Approval and Implementation, Gulf of Alaska and Bering Sea/Aleutian Islands, AK.

Summary: EPA expressed environmental concerns based on the potential for "highgrading" and under reporting of catch under the IFQ management system. The final EIS should analyze whether these activities could potentially contribute to overfishing problems and discuss enforcement mechanisms that could be used to prevent such a problem.

Final EISs

ERP No. F–CDB–C80010–NY, East Falls Street Redevelopment Project, Manufacturers MegaMall Construction, UDAG, Urban Renewal Plan Amendment, Niagara County, NY.

Summary: EPA has no objections to the proposed project.

EP No. F-FHW-E4O726–KY, US 27 Construction Camp Nelson to Nicholasville Bypass. Funding and 404 Permit, Jessamine County.

Summary: EPA continues to have environmental concerns about potential impacts associated with frontage roads and water quality impacts from non-point source pollutants.

ERP No. F-UMT-G54004–TX, South Oak Cliff Corridors Transit Improvements South Oak Cliff Communities to the Dallas Central Business District, Funding. COE Section 404 Permit, Coast Guard Bridge Permit, Special Use Permit, Dallas County, TX.

Summary: EPA has no objections to the projects.

Dated: October 1, 1991

R. Douglas Cooper,

Director SPAD Office of Federal Activities.

[FR Doc. 91–23971 Filed 10–03–91; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4018–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency

Office of Federal Activities, General Information (202) 260–5073 or (202) 260–5076. Availability of Environmental Impact Statements Filed September 23, 1991 Through September 27, 1991 Pursuant to 40 CFR 1506.9.

EIS No. 910344, DRAFT EIS, IBR, UT, Price-San Rafael Rivers Unit of the Colorado River Water Quality Improvement Program (CRWQIP) and the on-farm Colorado River Salinity Control Program (CRSC) Improvements, Funding and Possible Section 404 Permit, Carbon, Emery Counties, UT, Due: December 23, 1991, Contact: Roland Robison (801) 524–5592.

The U.S. Department of the Interior's Bureau of Reclamation and the U.S. Department of Agriculture's Soil Conservation Service are Joint Lead Agencies for this project.

EIS No. 910345, FINAL EIS, FHW, MD, I–695/Baltimore Beltway, US 40 West to MD–170 and MD–295/Baltimore-Washington Expressway, MD–46 to the Baltimore City Line Improvements, Funding and 404 Permit, Baltimore and Anne Arundel Counties, MD, Due: November 04, 1991, Contact: Herman Rodrigo (301) 962–4440.

EIS No. 910346, DRAFT EIS, GSA, MD, Baltimore Health care Financing Administration Consolidation (HCFA), Sites Selection and Funding, Woodlawn Area, Baltimore County, MD, Due: November 18, 1991, Contact: Harold Quinn (215) 597–1550.

EIS No. 910347, DRAFT EIS, NRC, Nuclear Power Plants Operating

Licenses (NUREG–1473) Renewal, NPDES Permit, Due: December 16, 1991, Contact: Donald Clearly (301) 492–3936.

EIS No. 910348, DRAFT EIS, AFS, UT, Uinta National Forest Plan Amendment, Rangeland Ecosystem Management Plan, Implementation, Utah-Wasatch, Utah, Toole and Juab Counties, UT, Due: January 03, 1992, Contact: David Griffel (801) 798–3571.

EIS No. 910349, DRAFT EIS, EPA, OR, Umpqua Ocean Dredged Material Disposal Site (ODMDS) Designation, Umpqua River, OR, Due: November 18, 1991, Contact: John Malek (206) 553–1286.

EIS No. 910350, DRAFT EIS, VAD, FL, East Central Florida Medical Center (ECFMC) Construction, Alternative Site Selection, Brevard Co., Orange Co.; Seminole Co.; and Volusia, Co.; FL, Due: November 18, 1991, Contact: Scott Gebhardtsbauer (202) 233–7086.

EIS No. 910351, FINAL EIS, EPA, TX, Monticello B–2 Area Surface Lignite Mine Expansion, Revised and Additional Information, Issuance of NPDES Permit and COE 404 Permit, Titus County, TX, Due: November 04, 1991, Contact: Norm Thomas (214) 655–2260.

EIS No. 910352, FINAL EIS, AFS, OR, Augur Creek Timber Sale and Road Construction, Implementation, Freemont National Forest, Paisley Ranger District, Lake County, OR, Due: November 04, 1991. Contact: Roger King (503) 943–3114.

EIS No. 910353, FINAL EIS, BLM, CA, Hayden Hill Open Pit Heap Leach Gold and Silver Mine Project, Construction and Operation, Mining Plan of Operations, Ancillary Right-of Ways and Well Permits Approval, Lassen County, CA, Due: November 04, 1991, Contact: John Bosworth (916) 257–5381.

EIS No. 910354, FINAL EIS, BLM, CO, San Luis Planning Area, Land and Resource Management Plan, Implementation, Alamosa, Costilla, Saguache, Conejos and Rio Grande Counties, CO, Due: November 04, 1991, Contact: Joe Kraayenbrink (719) 589–4975.

Amended Notices

EIS No. 910281, DRAFT EIS, BLM, CO, NM, TransColorado Gas Pipeline Transmission Project, Construction, Operation, and Maintenance, Section 404 and 10 Permits; Right-of-Way and Special Use Permit, La Plata, Delta, Dolores, Garfield, Mesa, Montezuma, Montrose, Rio Blanco, San Miguel Counties and San Juan County, NM, Due: November 22, 1991, Contact: Chuck Finch (303) 249–7791.

Published FR 08–23–91—Review period extended.

Dated: October 1, 1991.

R. Douglas Cooper,

Director, SPAD Office of Federal Activities.

[FR Doc. 91–23972 Filed 10–3–91; 8:45 am]

BILLING CODE 6560–50–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. The proposed report form under review is listed below.

DATES: Comments must be received on or before November 18, 1991. If you anticipate commenting on a report form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Copies of the proposed report form, the request for clearance (Standard Form 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT: *EEOC Agency Clearance Officer:* Margaret P. Ulmer, Office of Management, room 2220, 1801 L Street, NW., Washington, DC 20507; Telephone: (202) 663–4279.

OMB Reviewer: Joseph Lackey, Human Resources and Housing Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503; Telephone: (202) 395–7316.

Type of Request: Revision.

Title: Employer Information Report EEO–1.

Form Number: Standard Form 100.

Frequency of Report: Annually.

Type of Respondent: Private employers with 100 or more employees and certain Federal government contractors with 50 or more employees.

Standard Industrial Classification (SIC) Code: Multiple.

Description of Affected Public: IND/HHID and Farms and Businesses/INST.

Responses: 150,000.

Reporting Hours: 870,000.

Federal Cost: $1,008,000.

Applicable under Section 3504(h) of Public Law 96–511: Not applicable.

Number of Forms: 1.

Abstract-Needs/Users: EEO–1 data are used by EEOC to investigate charges of discrimination against employers in private industry. Data are shared with several Federal government agencies, particularly the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor. Under Section 709(d) of Title VII of the Civil Rights Act of 1964, as amended, EEO–1 data are also shared with approximately 127 State and local FEP agencies.

Dated: September 30, 1991.

For the Commission.

R. Edison Elkins,

Management Director, Equal Employment Opportunity Commission.

[FR Doc. 91–23672 Filed 10–3–91; 8:45 am]

BILLING CODE 6570–06–M

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. The proposed report form under review is listed below.

DATES: Comments must be received on or before November 18, 1991. If you anticipate commenting on a report form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Copies of the proposed report form, the request for clearance, (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT: *EEOC Agency Clearance Officer:* Margaret P. Ulmer, Financial and Resource Management Services, room 2220, 1801 L Street, NW., Washington, DC 20507; Telephone (202) 663–4279.

OMB Reviewer: Joseph Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503; Telephone (202) 395–7316.

Type of Request: Extension (No Change).

Title: State and Local Government Information EEO–4.

Form Number: EEOC Form 164.

Frequency of Report: Annually for respondents with 100 or more employees, a statistical sample of respondents with 15–99 employees.

Type of Respondent: State and local governments with 15 or more employees.

Standard Industrial Classification (SIC) Code: 911–965.

Description of Affected Public: State and local governments.

Responses: 24,100.

Reporting Hours: 125,400.

Federal Cost: $280,700.

Applicable under Section 3504(h) of Public Law 96–511: Not applicable.

Number of Forms: 1.

Abstract-Needs/Users: EEO–4 data are used by EEOC to investigate charges of discrimination against State and local governments and in EEOC systemic program decisions. Data are shared with several Federal government agencies. Under section 709(d) of Title VII of the Civil Rights Act of 1964, as amended, EEO–4 data are also shared with approximately 38 State and 102 local Fair Employment Practices Agencies. Aggregate data are used by researchers and the general public.

Dated: September 27, 1991.

For the Commission.

R. Edison Elkins,

Management Director, Equal Employment Opportunity Commission.

[FR Doc. 91–23873 Filed 10–3–91; 8:45 am]

BILLING CODE 6570–06–M

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. The proposed report form under review is listed below.

DATES: Comments must be received on or before November 18, 1991. If you anticipate commenting on a report form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Copies of the proposed report form, the request for clearance, (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT: *EEOC Agency Clearance Officer:* Margaret P. Ulmer, Financial and Resource Management Services, room 2220, 1801 L Street, NW., Washington, DC 20507; Telephone (202) 663–4279.

OMB Reviewer: Joseph Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503; Telephone (202) 395–7316.

Type of Request: Revision of a currently approved collection.

Title: Higher Education Staff Information Report EEO–6.

Frequency of Report: Biennially.

Type of Respondent: Business/other institutions/State or local governments.

Standard Industrial Classification (SIC) Codes: 822, 824, 829.

Description of Affected Public: Institutions of higher education with 15 or more full-time employees.

Responses: 3,000.

Reporting Hours: 9,000.

Federal Costs: $42,000.00.

Applicable Under Section 3504(h) of Public Law 95–511: Not applicable.

Number of Forms: 1.

Data are used by EEOC in its compliance, litigation and conciliation activities. Data are shared with other Federal agencies, and 25 State and 77 local Fair Employment Practices Commissions (FEPC's) in support of their EEO programs after pledging to abide by EEO–6 confidentiality restrictions.

Dated: September 27, 1991.

For the Commission.

R. Edison Elkins,

Management Director, Equal Employment Opportunity Commission.

[FR Doc. 91–23874 Filed 10–3–91; 8:45 am]

BILLING CODE 6570–06–M

Employer Information Report (EEO–1); Change in Survey Form and Instructions

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of proposed change to the EEO–1 (Standard Form 100) survey questionnaire by expanding the number of job categories from the current nine to fifteen.

SUMMARY: Starting with the 1992 survey year, employers will be required to report their employment on the EEO–1 form by fifteen broad job categories rather than the current nine. The additional categories are designed to provide more homogeneous groupings by subdividing the larger and more diverse current categories. The new categories will allow more accurate descriptions of employers' work forces. The Commission, in its investigation of charges of discrimination in employment, needs more job specific data. In the long run, it is expected that the additional job category break outs will make investigations more expeditious for the Commission and less burdensome to the employer. More detailed information on the job categories or workers will, in many instances, cut down on the requests for information during investigations. It is also expected that the expanded categories will facilitate employers' own evaluation of their work forces. Four of the categories remain unchanged. The changes in the other categories are primarily divisions of the existing definitions. The proposed job classifications immediately follow this notice.

DATE: Comments must be submitted on or before December 3, 1991. A public hearing concerning these proposed changes will be held on a date and at a time and place to be announced.

ADDRESSES: Comments should be addressed to the Office of the Executive Secretariat, EEOC, 10th Floor, 1801 L Street, NW., Washington, DC 20507. Copies of comments submitted by the public will be available for review at the Commission's library, room 6502, 1801 L Street, NW., Washington, DC between the hours of 9:30 a.m. and 5 p.m. Any comments should additionally be filed with the Office of Management and Budget (See "Paperwork Reduction Act" below).

As a convenience to commentors, the Executive Secretariat will accept public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 663–4114. (This is not a toll-free number.)

Only public comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary to assure access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat Staff at (202) 663–4078. (This is not a toll-free number.)

FOR FURTHER INFORMATION CONTACT: Joachim Neckere, Director, Program Research and Surveys Division at (202) 663–4958 (voice) or (202) 708–9300 (TDD).

SUPPLEMENTARY INFORMATION: After evaluating its data needs, the Commission concluded that, in order to increase the utility of the EEO–1 data for charge resolution purposes, some expansion to the current form is necessary. Weighing utility against cost and respondent burden, the job category expansion was deemed to be the most useful for minimal increased cost to the government as well as to employers. It was the least burdensome of all the alternatives considered. Increases in recordkeeping costs and reporting burden hours would accrue largely during the initial year of implementation. Once the new categories have been coded in the employers' records, there should be little further increase in burden hours or cost. This proposal does not change the number of employers who file the EEO–1 report. It also does not change the number of reports employers file.

Persons wishing to present their views orally should notify the Commission of their desire to do so, in writing, no later than [Insert thirty days from the date of publication] with a request to Francis Hart, Executive Officer, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507. The request should include a written summary of the remarks to be offered.

Paperwork Reduction Act

This proposed change in survey form and instructions contains information collection requirements subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act. It is estimated that nationwide the recordkeeping and reporting burden hours would increase by approximately 300,000 hours. Most of this would be in the initial year of implementation. As more and more employers computerize their EEO–1 reporting, the increase in burden hours will be reduced considerably. The processing cost to the government is estimated to increase by $308,000 annually. As required by the Paperwork Reduction Act, the Equal Employment Opportunity Commission is submitting a request to the Office of Management and Budget that it approve these information collection requirements. Organizations or individuals desiring to submit comments for consideration by OMB on these information collection requirements should address them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Joseph Lackey.

The Commission also certifies under 5 U.S.C. 605(b) enacted by the Regulatory Flexibility Act (Pub. L. No. 96–354), that these modifications will not result in significant impact on a substantial number of small employers, and that a regulatory flexibility analysis therefore is not required. Because only employers with 100 or more employees and government contractors with 50 or more employees and a contract amounting to $50,000 or more are required to file the EEO–1 report, small employers are not affected.

The Commission hereby publishes this proposed change for public comment.

Dated: September 30, 1991.

For the Commission.

Evan J. Kemp, Jr.,

Chairman.

EEO–1 JOB CLASSIFICATIONS

Current classifications	New classifications
1. Officials & Managers	1. Senior Level Officials & Managers. 2. Other Officials & Managers.
2. Professionals	3. Science & Engineering Related Professionals. 4. Health Assessment & Treating Professionals. 5. Other Professionals.
3. Technicians	6. Technologists & Technicians.
4. Sales Workers	7. Sales Occupations
5. Office & Clerical	8. Clerical & Administrative Support Occupations.
6. Service Workers	9. Service Occupations, except protective. 10. Protective Service Occupations.
7. Crafts Workers (Skilled).	11. Mechanics, Repairers, & Other Crafts Workers. 12. Skilled Precision Production Occupations.
8. Operatives (Semi-skilled).	13. Transport & Material Moving Occupations. 14 Other Operatives.
9. Laborers (Unskilled)	15. Laborers, Helpers & Material Handlers.

[FR Doc. 91–23875 Filed 10–3–91; 8:45 am]

BILLING CODE 6750–06–M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1992 ITU World Administrative Radio Conference for Dealing With Frequency Allocations in Certain Parts of the Spectrum (92–WARC Advisory Committee)

September 30, 1991.

The FCC Industry Advisory Committee for the ITU 1992 World Administrative Radio Conference for Dealing with Frequency Allocations in Certain Parts of the Spectrum [92–WARC Advisory Committee] will meet between 5 and 6 p.m. on Tuesday, October 22, 1991, in room 856 at Commission premises located at 1919 M Street, NW., Washington, DC.

The agenda for this seventh and final meeting of the Committee will be to receive a report from the FCC on its consideration of the Industry Advisory Committee's Final Report (IAC–48) to the FCC in Docket No. 89–554, and the Report of the Commission itself in the Docket vis-a-vis United States Proposals for the Conference.

Information regarding meetings of the Industry Advisory Committee may be obtained twenty-four hours a day, seven days a week, via the Public Access Link (PAL) by dialing the FCC Laboratory Computer at (301) 725–1072.

Designated Federal Official for the Committee is Walda W. Roseman, Office of International Communications, Federal Communications Commission, Washington, DC 20554, (202) 632–0935.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–23856 Filed 10–3–91; 8:45 am]

BILLING CODE 6712–01–M

[DA 91–1187]

Comments Invited on Utah Public Safety Plan

September 27, 1991.

The Commission has received the public safety radio communications plan for Utah (Region 41).

In accordance with the Commission's Report and Order in General Docket No. 87–112 implementing the Public Safety National Plan, interested parties may file comments on or before November 6, 1991 and reply comments on or before November 21, 1991. (See Report and

Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987), at paragraph 54.)

Commenters should send an original and five copies of comments to the Secretary, Federal Communications Commission, Washington, DC 20554 and should clearly identify them as submissions to PR Docket 91–282 Utah-Public Safety Region 41.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632–6497 or Ray LaForge, Office of Engineering and Technology, (202) 653–8112.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–23857 Filed 10–3–91; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–916–DR]

Amendment to a Major Disaster Declaration; Connecticut

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Connecticut (FEMA–916–DR), dated August 30, 1991, and related determinations.

DATES: September 16, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: The notice of a major disaster for the State of Connecticut, dated August 30, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared to a major disaster by the President in his declaration of August 30, 1991:

The counties of Hartford, New Haven, and Tolland for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 91–23954 Filed 10–3–91; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–918–DR]

Major Disaster and Related Determinations; New York

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–918–DR), dated September 16, 1991, and related determinations.

DATES: September 16, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: Notice is hereby given that, in a letter dated September 16, 1991, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 1521 *et seq.*, Pub. L. 93–288, as amended by Public Law 100–707), as follows:

I have determined that the damage in certain areas of the State of New York, resulting from Hurricane Bob on August 19, 1991, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Individual Assistance may be provided at a later date, if requested and warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Ihor W. Husar of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared major disaster:

Suffolk County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Wallace E. Stickney,

Director, Federal Emergency Management Agency.

[FR Doc. 91–23955 Filed 10–3–91; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Proposed Requirement for Electronic Submission of Bank Reports of Condition and Income

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Request for comment.

SUMMARY: The Federal Institutions Examination Council ("Examination Council") requests public comment on a proposed timetable under which banks would be required to submit their Reports of Condition and Income ("Call Reports") electronically. The filing of Call Reports is required quarterly by the Office of the Comptroller of the Currency ("OCC") for national banks, the Federal Reserve Board ("FRB") for state member banks, and the Federal Deposit Insurance Corporation ("FDIC") for insured state nonmember commercial and savings banks. At present, banks must submit their completed Call Reports on the report forms provided by the federal bank supervisory agencies, on computer-generated facsimiles of the agency-supplied report forms, or electronically over telephone lines to the banking agencies' electronic collection agent using computer software. Except for certain banks with foreign offices that are required to transmit electronically, most banks currently have the option of either filing hard-copy (paper) reports or submitting their Call Reports electronically. Under the timetable proposed herein by the Examination Council, beginning as of March 31, 1992, banks with assets of $100 million or more as of June 30, 1991, would be required to file electronically. One year later, this requirement would be extended to banks with assets of $50 million or more as of June 30, 1991. Finally, as of March 31, 1994, all banks would be required to submit their Call Reports electronically. The proposed timetable would not change the existing deadlines for submitting Call Reports.

The Examination Council invites comment on all aspects of the proposed electronic submission requirement. Specific comments furnishing

information on the costs of and savings realized from the use of Call Report software to prepare and transmit reports would be helpful to the agencies. In addition, the Examination Council seeks comment on whether banks meeting certain criteria (e.g., those with assets of less than some specified amount) that do not have personal computers should either be exempt from the electronic submission requirement or should be permitted to request waivers from it.

DATE: Comments must be received by November 18, 1991.

ADDRESSES: Comments should be directed to Robert J. Lawrence, Executive Secretary, Federal Financial Institutions Examination Council, 1776 G Street, NW., suite 850B, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT:

OCC: David C. Motter, Special Assistant to the Chief National Bank Examiner, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219, (202) 874–4922.

FRB: Rhoger H Pugh, Manager, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW., Washington, DC 20551, (202) 728–5883.

FDIC: Robert F. Storch, Chief, Accounting Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, (202) 898–8906.

SUPPLEMENTARY INFORMATION:

Background

In the early 1980s, the growing use of personal computers in the banking industry led to the introduction of software to assist banks in preparing their Call Reports. This software was also programmed to generate a printout of a bank's Call Report in a format closely resembling that of the printed forms supplied to all banks by the banking agencies each quarter. Thus, in 1985, the Examination Council advised all banks that the banking agencies would accept computer-generated facsimile Call Reports satisfying certain format standards in lieu of the agency-supplied printed forms. Taking further advantage of advancements in computer technology, the Examination Council authorized the electronic submission of Call Reports to the banking agencies starting with the March 31, 1988, report date. Through a recently conducted competitive bidding process, the Examination Council selected a new collection agent to provide electronic collection services beginning with the Call Reports for June 30, 1991. This contract is for three years with three one-year renewal options.

Currently, around 6,800 or 54 percent of all banks (including 46 percent of the 9,400 banks with less than $100 million in assets) use Call Report software either to file computer-generated facsimile report forms or to submit their data electronically. Electronically submitted reports are received from nearly 50 percent of the banks using this software, that is, from 27 percent of all banks, including 19 percent of banks with less than $100 million in assets. Since the electronic submission of bank Call Reports was first permitted as of March 31, 1988, the number of banks using this filing method has grown steadily from around 750 that quarter to over 3,400 as of March 31, 1991, and total bank usage of Call Report software has likewise been increasing over time. This increasing level of bank participation in the electronic submission program, which has involved institutions of all sizes, has largely been achieved on a voluntary basis.[1] This suggests that, regardless of size, banks that use computer software to prepare their Call Reports, and particularly those which choose to submit electronically, have concluded that this automated method of preparing and filing their reports offers certain benefits compared to completing hard-copy report forms manually or in some other manner.

Costs and Benefits to Banks of Call Report Software and Electronic Submission

During the third quarter of 1990, the OCC conducted separate statistically valid surveys of three groups of national banks: those that submit their Call Reports on the agency-supplied forms, those that use Call Report software to prepare and file computer-generated facsimile report forms, and those that submit their reports electronically.[2] The purpose of these surveys was to determine why the banks in each group use that particular submission method.

According to the OCC's surveys, national banks find a number of advantages to the use of Call Report software. In particular, after an initial learning period, the survey indicates that the use of Call Report software saves banks, on average, more than six hours in preparation time each quarter compared to the time spent to complete their Call Reports before they began using such software. These banks also cited the reduction in errors that they achieve through the use of the Call Report software because of the edits built into the software that allow them to correct certain types of errors before the reports are filed. This means that less time has to be spent by both the banks and the banking agencies in following up on edit exceptions identified by the agencies during their quarterly Call Report processing cycles.

National banks filing electronically further noted that the electronic submission method eliminates the need to allow time for mailing the hard-copy (paper) report forms to ensure that they are received by the Call Report submission deadline. Thus, under current timely filing standards, a bank transmitting its report electronically has up to three more days in which to complete the Call Report than a bank that mails its report, even if the report itself is a computer-generated facsimile. Additionally, when reports are transmitted electronically, the electronic collection agent provides the transmitting bank with immediate confirmation (electronically) that its Call Report has been received by the collection agent for forwarding to the banking agencies. Banks mailing their Call Reports receive no indication as to whether and, if so, when their reports have been received by the agencies.

As for national banks that complete and submit the agency-supplied Call Report forms, the OCC's survey of these banks showed that their nonuse of Call Report software could neither be attributed to a lack of awareness of such software (including the electronic submission option) nor to a lack of personal computers. Of the national bank respondents in this group, 97 percent knew about Call Report software and 90 percent stated that their banks had personal computers on which the software could be run. (Call Report preparation software is also available for use on mainframe computers.) In explaining their reasons for not using Call Report software to prepare their reports, nearly two-thirds of the national banks in this group cited the cost of the software. However, these banks' concern that such software would not be cost effective to use runs counter to the comments by national bank software users.

As mentioned above, national bank software users had reduced their Call Report preparation time by an average

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[1] The only banks that are currently required to submit electronically are a relatively small number that have or have had more than one foreign office (other than a "shell" branch or an International Banking Facility) that use any of the additional 15 days they are allowed for the completion of their reports.

[2] The Examination Council believes that the findings of the OCC's surveys of national banks that are discussed in this document are comparable to the results that would have been obtained had all banks been surveyed.

of more than six hours per quarter or 24 hours per year. Based on the average salary and benefits per full time equivalent employee of slightly more than $13 per hour at banks with less than $100 million in assets (based on calendar year 1990 data), the time saved by banks using Call Report software translates into an annual savings of more than $300. This means that a bank, on average, should be able to recover a substantial portion of its annual outlay of $400 to $500 for Call Report preparation software.[3] The time that is saved by a bank's staff can then be used for other productive activities. Moreover, the edits built into the Call Report software permit banks to correct certain types of errors before submitting their reports rather than having to do so afterward when their reports are edited by the banking agencies. This offers an additional but less quantifiable cost savings that banks not using Call Report software may not be taking into account. Thus, when all of these factors are considered, the Examination Council believes that using commercially-available preparation software is an affordable and cost-effective way to complete a Call Report.

Nevertheless, while the majority of all banks have chosen to use Call Report software, only half of these banks take advantage of the electronic submission feature that is incorporated into their software. As a result, some 3,400 banks submit hard-copy (paper) report forms that they have produced on their Call Report software. The OCC survey of national banks in this group revealed that slightly more than two-thirds of them lacked modems and therefore were not equipped to transmit electronically. A similar percentage of national banks not currently using Call Report software do not own modems. Most national banks in the former group gave the cost of a modem as the most important reason for not electronically submitting while most national banks in the latter group also cited the cost of a modem as a reason (but not necessarily as the most important reason) for not filing electronically. However, depending on quality, a modem represents a one-time cost of from $75 to $200. When this cost is amortized over several quarters of use, this price range should make the purchase of a modem affordable to all institutions. (Moreover, one Call Report software vendor periodically offers a free modem as an inducement to attract new subscribers to its software.)

[3] One software vendor offers a fairly basic stand-alone small bank software package at an annual cost of approximately $200.

Regulatory Agencies' Perspective on Software and Electronic Submission

As mentioned above, a key feature of the commercially-available Call Report software packages is the set of edits they contain that identify and allow banks to correct mathematical errors in their reports. Thus, the banking agencies have regarded their acceptance of computer-generated facsimile Call Report forms and electronically submitted reports as a means of improving the quality of the data received from banks. The OCC's surveys of national banks confirm that bankers hold a similar view. Support for such a conclusion is also evident from statistics compiled by the FDIC comparing mathematical edit exception rates for banks that use Call Report software and those that do not. For example, the mathematical edit exception rate for the 6,600 national and state nonmember banks using Call Report software to prepare their March 31, 1991, reports was only one-third of the rate for the 5,100 national and state nonmember banks not using such software.[4] Thus, greater usage of Call Report software provides an opportunity for an improvement in the quality of the data banks submit to the agencies. Other things being equal, this would tend to lessen the amount of time the agencies would need to spend on editing reports each quarter.

Another reason for the Examination Council's institution of the electronic submission program has been to improve the timeliness with which the quarterly Call Report data was available for processing and use. In this regard, hard-copy (paper) Call Reports must be keypunched before they can be loaded onto the agencies' databases, a step which is, of course, not necessary for electronically submitted Call Reports. At the FDIC in particular, because of the backlog that develops when 8,600 hard-copy Call Reports needing keypunching arrive each quarter around the filing deadline, up to seven days can elapse between the receipt of a hard-copy report and the date when it has been keypunched and can be loaded into the FDIC's Call Report processing system. In contrast, a report received electronically can normally be loaded into the agencies' computer systems the day after it has been received by the agencies' electronic collection agent.[5]

Thus, the adoption of an electronic requirement would bring the date as of which the Call Reports for all banks are available on the agencies' databases much closer to the actual submission deadline (which, for most banks, is 30 days after the Call Report date) than is presently the case. This, coupled with the lower edit exception rate for reports prepared using Call Report software, may ultimately enable the agencies' edit processing to be completed sooner than at present. Such an outcome would also provide banks and the public with earlier access to Call Report data.

In addition, the cost to the agencies of getting a bank's Call Report data into their databases is lower for electronically submitted reports than for hard-copy (paper) report forms. With reports filed electronically, Call Report data can be loaded directly into the agencies' processing systems in the form in which it is received because keypunching is not necessary. The data entry and other costs for handling hard-copy Call Reports are approximately $10.50 per report under the current contract with the vendor who keypunches these reports. In contrast, at the current level of 3,400 electronically submitted quarterly Call Reports, the average cost to the banking agencies' per report filed electronically under the pricing scale contained in the Examination Council's current contract with its electronic collection agent is approximately $4.66 per report. As the number of electronically submitted reports increases in specified increments, the unit cost per report within each higher increment declines. If all 12,800 banks were required to submit their Call Reports electronically, the average cost to the banking agencies for each Call Report would decrease to approximately $2.56 per report.

Thus, with the current combination of both electronically submitted and hard-copy (paper) Call Reports, the agencies are incurring an annual cost in excess of $415,000 to get the Call Reports received from all banks loaded into their processing systems. In contrast, if all banks filed their Call Reports electronically with the banking

[4] It should be noted that the types of edits in the banking agencies' Call Report processing systems extend beyond the mathematical edits to which the commercially-available software edits are generally limited. These other types of edits generally determine whether reported information falls outside established parameters. Edit exceptions identified by the agencies' systems require further agency staff review to determine whether a reporting error has actually occurred, a process which often involves telephone contact with the bank which filed the report. FCIC statistics on nonmathematical edit exceptions indicate that the exception rates for banks using Call Report software and for those that do not are about the same.

[5] Errors by the agencies in keypunching data from Call Reports filed in hard-copy form would also be eliminated if all Call Reports were required to be submitted electronically.

agencies' collection agent, this annual cost would decrease by around $300,000.

Proposal

The Examination Council recognizes that the number of banks submitting their Call Reports electronically has grown steadily since banks were first permitted to use this filing method in 1988. Nevertheless, even if this growth continues, the Examination Council has concluded that the achievement of a high level of industry participation in the electronic submission program will not be attained in the near term as long as participation remains voluntary. At the same time, banks of all sizes that purchase Call Report preparation software and use it to transmit their reports electronically generally have found it advantageous to do so.

Thus after considering the costs and the benefits to both banks and the agencies, the Examination Council believes that the percentage of banks currently using Call Report preparation software with an electronic submission feature and the percentage of banks already filing electronically on a voluntary basis are sufficient to justify a requirement that banks submit their Call Reports electronically. The Examination Council acknowledges, however, that smaller banks may need longer than larger banks to prepare themselves for transmitting electronically. Consequently, the Examination Council is proposing to require that Call Reports be submitted electronically in accordance with the timetable set forth below. The proposed schedule gives the smallest banks the longest amount of lead time before their electronic transmissions must begin. Of course, any bank not filing electronically could, at its option, adopt this submission method earlier than would otherwise be required.

The Examination Council invites comment on the proposed electronic submission requirement and on the dates as of which the requirement would take effect. Specific comments furnishing information on the costs of and savings realized from the sue of Call Report software to prepare and transit reports would be helpful to the agencies. In addition, the Examination Council recognizes that some very small banks may find it difficult or unduly burdensome to comply with an electronic submission requirement. Therefore, comment is also sought on whether banks meeting certain criteria (e.g., those with assets of less than some specified amount) that do not have personal computer should either be exempt from the electronic submission requirement or should be permitted to request waivers from it.

In preparing their responses, commenters should note two factors that may affect the content of the Call Report forms during the proposed timetable. The Examination Council's Task Force on Reports is studying the possibility of reducing the number of different versions of the Call Report from the present four and the Task Force will be attempting to develop a common core set of regulatory report requirements for banks and thrifts.

The proposed timetable for the electronic submission requirement is as follows:

(1) Beginning with the March 31, 1992, Call Reports, banks with $100 million or more in assets as of June 30, 1991, would be required to transmit electronically.

This group of banks currently numbers approximately 3,400, of which 48 percent are at present submitting electronically and another 27 percent are filing computer-generated facsimile report forms. Around 800 of the banks in this group currently do not use Call Report software to prepare their reports.

(2) Beginning with the March 31, 1993, Call Reports, banks with $50 million or more in assets as of June 30, 1991, would be required to transmit electronically.

This would extend mandatory electronic submission to another 2,900 banks of which 30 percent are at present submitting electronically and another 30 percent are filing computer-generated facsimile report forms. Less than 1,200 of the banks in this group currently do not use Call Report software to prepare their reports.

(3) Beginning with the March 31, 1994, Call Reports, all banks would be required to transmit electronically.

This would extend mandatory electronic submission to the 6,500 banks with less than $50 million in assets, of which 14 percent are at present submitting electronically and another 25 percent are filing computer-generated facsimile report forms. Around 3,900 banks with less than $50 million in assets are not currently using Call Report software to prepare their reports.

Dated: October 1, 1991.

Robert J. Lawrence,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 91-23941 Filed 10-3-91; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL MARITIME COMMISSION

Crowley Caribbean Transport, et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-011271-005.

Title: U.S./Peru Discussion Agreement.

Parties: Crowley Caribbean Transport, Inc., Empresa Naviera Santa, Lykes Bros. Steamship Co., Inc., Compania Chilena de Navegacion Interoceanica (CCNI), Empremar, S.A., Nedlloyd Lines.

Synopsis: The proposed amendment would add Mediterranean Shipping Company as a party to the Agreement. The parties have requested a shortened review period.

Agreement No.: 203-011325-002.

Title: Westbound Transpacific Stabilization Agreement.

Parties: American President Lines, Ltd., Kawasaki Kisen Kaisha, Ltd., A.P. Moller-Maersk Line, Mitsui O.S.K. Lines, Ltd., Neptune Orient Lines, Ltd., Nippon Liner System, Ltd., Nippon Yusen Kaisha, Ltd., Sea-Land Service, Inc., Evergreen Marine Corporation, Hanjin Shipping Co., Ltd., Hyundai Merchant Marine Co., Ltd., Orient Overseas Container Line, Yang Ming Lines, Transportacion Maritima Mexicana, S.A. de C.V. (Mexican Line).

Synopsis: The proposed amendment would delete Nippon Liner Service as a party to the Agreement.

Agreement No.: 232-011349.

Title: South Seas/Polynesia Line Cross Space, Charter and Sailing Agreement.

Parties: South Seas Steamship Co., Polynesia Line Limited.

Synopsis: The proposed Agreement would authorize the parties to charter space to each other, diseuss and coordinate their sailing schedules in the

trade between ports in the American Samoa and the U.S. The parties have requested a shortened review period.

Agreement No.: 224–200102–004

Title: Georgia Ports Authority and Ocean Star Container Line

Parties: Georgia Ports Authority, Ocean Star Container Line

Synopsis: The proposed amendment reflects increases in wharfage and other container handling and service charges assessed under the Agreement.

Agreement No.: 224–200103–006.

Title: Georgia Ports Authority and A/S Ivarans Rederi.

Parties: Georgia Ports Authority, A/S Ivarans Rederi.

Synopsis: The proposed amendment reflects increases in wharfage and other container handling and service charges assessed under the Agreement.

Agreement No.: 224–200158–002.

Title: Port of Portland/Evergreen Terminal Use Agreement.

Parties: Port of Portland, Evergreen Marine Corporation (Taiwan) Ltd.

Synopsis: The Agreement, filed September 23, 1991, extends the term of the lease agreement between the parties through October 31, 1991.

Agreement No.: 224–200224–004.

Title: Georgia Ports Authority and Chiquita Brands, Inc.

Parties: Georgia Ports Authority, Chiquita Brands, Inc.

Synopsis: The proposed amendment reflects increases in wharfage and other container handling and service charges assessed under the Agreement.

Agreement No.: 224–200230–003.

Title: Georgia Ports Authority and Wilhelmsen A/S.

Parties: Georgia Ports Authority, Wilhelmsen A/S.

Synopsis: The proposed amendment reflects increases in wharfage and other container handling and service charges assessed under the Agreement.

Agreement No.: 224–200284–002.

Title: Georgia Ports Authority and United Arab Shipping Company.

Parties: Georgia Ports Authority, United Arab Shipping Company.

Synopsis: The proposed amendment reflects increases in wharfage and other container handling and service charges assessed under the Agreement.

Agreement No.: 224–200371–002.

Title: Georgia Ports Authority and Compagnie Generale Maritime.

Parties: Georgia Ports Authority, Compagnie Generale Maritime.

Synopsis: The proposed amendment reflects increases in wharfage and other container handling and service charges assessed under the Agreement.

Agreement No.: 224–200381–002

Title: Georgia Ports Authority and Zim-American Israeli Shipping Company, Inc.

Parties: Georgia Ports Authority, Zim-American Israeli Shipping Company, Inc.

Synopsis: The proposed amendment reflects increases in wharfage and other container handling and service charges assessed under the Agreement.

Agreement No.: 224–200416–003.

Title: Georgia Ports Authority/ Jugolinija Terminal Agreement.

Parties: Georgia Ports Authority, Jugolinija.

Synopsis: The proposed amendment reflects increases in wharfage and other container handling and service charges assessed under the Agreement.

Agreement No.: 224–200419–003.

Title: Georgia Ports Authority and Evergreen Marine Corporation (Taiwan), Ltd., Italia di Navigazione, Compagnie Generale Maritime.

Parties: Georgia Ports Authority, Evergreen Marine Corporation (Taiwan), Ltd., Italia di Navigazione, Compagnie Generale Maritime.

Synopsis: The proposed amendment reflects increases in wharfage and other container handling and service charges assessed under the Agreement.

Agreement No.: 224–200421–002.

Title: Georgia Ports Authority and Polish Ocean Line.

Parties: Georgia Ports Authority, Polish Ocean Line.

Synopsis: The proposed amendment reflects increases in wharfage and other container handling and service charges assessed under the Agreement.

Dated: September 30, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91–23912 Filed 10–03–91; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 91–36]

Revenue Protection Services, as Agent for Bottacchi Line v. Daltex International, S.A.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Revenue Protection Services, as agent for Bottacchi Line ("Complainant") against Daltex International, S.A. ("Respondent") was served September 30, 1991. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. 1709(a)(1), by failing and refusing to pay ocean freight and other charges lawfully assessed pursuant to Complainant's applicable tariffs or service contracts for a shipment of animal feed supplement from New Orleans, Louisiana to Santo Domingo, Dominican Republic in August 1989.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by September 30, 1992, and the final decision of the Commission shall be issued by January 28, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 91–23910 Filed 10–3–91; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 91–37]

China Ocean Shipping Company v. DMV Ridgeview, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by China Ocean Shipping Company ("Complainant") against DMV Ridgeview, Inc. ("Respondent") was served September 30, 1991. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. 1709(a)(1), by failing to pay lawful freight charges pursuant to Complainant's applicable tariffs.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are

necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by September 30, 1992, and the final decision of the Commission shall be issued by January 28, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 91–23909 Filed 10–3–91; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Centura Banks, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than October 28, 1991.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Centura Banks, Inc., Rocky Mount, North Carolina; to acquire Citizens Federal Savings and Loan Association of Rutherfordton, Rutherfordton, North Carolina, and thereby engage in deposit and lending activities of a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Union Savings Bancshares, Inc., Sedalia, Missouri; to acquire Sedalia Computer Services, Inc., Sedalia, Missouri, and thereby engage in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 30, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–23939 Filed 10–3–91; 8:45 am]

BILLING CODE 6210–01–F

J. Douglas and Barbara R. Lasater, et al.; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than October 21, 1991.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. J. Douglas and Barbara R. Lasater, Beaver, Oklahoma; to acquire an additional 6.74 percent of the voting shares for a total of 29.54 percent; Larry E. and Leta Mikles, Turpin, Oklahoma, to acquire an additional 6.74 percent of the voting shares for a total of 29.54 percent; and Charles and Karen Weber, Beaver, Oklahoma, to acquire an additional 6.75 percent for a total of 29.57 percent of the voting shares of Beaver Bancorp, Inc., Beaver, Oklahoma, and thereby indirectly acquire The Bank of Beaver City, Beaver, Oklahoma.

Board of Governors of the Federal Reserve System, September 30, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–23940 Filed 10–3–91; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–91–3328]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding this proposals. Comments should refer to the proposal by name and should be sent to: Wendy Swire, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its

proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 27, 1991.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Certificate of Need for Health Facility and Assurance of Enforcement of State Standards.

Office: Housing.

Description of The Need For the Information and its Proposed Use: Sections 232 and 242 of the National Housing Act authorize mortgage insurance for nursing homes and/or intermediate care facilities (ICFs), and hospitals. Form HUD–2576 HF, Certificate of Need, is used and needed by the nursing homes, ICFs, and hospitals to obtain approval for an insured loan.

Form Number: HUD–2576–HF.

Respondents: State of Local Governments, Businesses or Other For-profit, and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–2576–HF	100		1		.2		20
Study	20		1		150		3,000
Recordkeeping	120		1		.2		24

Total Estimated Burden Hours: 3,044.

Status: Extension.

Contact: Jack Payne, HUD, (202) 708–1113 Jennifer Main, OMB, (202) 395–6880.

Dated: September 27, 1991.

Proposal: Rent Adjustments for Section 8 Assisted Housing; Retroactive Housing Assistance Payments (FR–2745).

Office: Housing.

Description of the Need for the Information and Its Proposed Use: Under Section 801 of the HUD Reform Act of 1989, a one-time contract rent determination and a calculation of retroactive payments must be made for certain owners in the Section 8 Housing Assistance Payment Program. Collecting this information from owners, State agencies, and Public Housing Agencies is necessary for the Department to be in compliance with the legislation.

Form Number: None.

Respondents: State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees and Non-Profit Institutions.

Frequency of Submission: One-Time.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	1,113		1,7035		.8544		1,620

Total Estimated Burden Hours: 1,620.

Status: Extension.

Contact: Michelle McLaurin, HUD, (202) 708–3944; Delia McCormick, HUD, (202) 755–4969; Jennifer Main, OMB, (202) 395–6880.

Dated: September 27, 1991.

Proposal: Title I Lender Approval Forms and Associated Recordkeeping.

Office: Housing.

Description of the Need for the Information and its Proposed Use: These forms will be used for approving lending institutions for participation in the Title I Property Improvement Home Loan Programs. The information will also be used for supervision and evaluation of the lender after approval, and maintenance of HUD's Institution Master File (IMF) which is a record of HUD-approved mortgages and lending institutions.

Form Number: HUD–92001–L, LC, LD, LB, LK and LV.

Respondents: State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions and Small Businesses or Organizations.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD Forms:							
92001–L	300		1		1		300
92001–LC	300		1		1		300
92001–LD	300		1		1		300
92001–LB	300		1		1		300
92001–LK	1,400		1		50		700
92001–LV	7,000		1		.25		1,750
Recordkeeping	7,000		1		.25		1,750

Total Estimated Burden Hours: 5,400.
Status: Revision.
Contact: Sandra L. Allison, HUD, (202) 708–1824; Jennifer Main, OMB, (202) 395–6880.

Dated: September 27, 1991.

Proposal: American Housing Survey–1991 Metropolitan Sample (MS).

Office: Policy Development and Research.

Description of the Need for the Information and its Proposed Use: The American Housing Survey–1992 is a longitudinal study that collects current information on the quality, availability, and cost of housing in 11 selected metropolitan areas. It also provides information on demographic and other characteristics of the occupants. The data collected will be used by Federal and local government agencies to evaluate housing issues.

Form Number: AHS–61, 62, 63, 66, 67 68 and 590.

Respondents: Individuals or Households.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	49,500		1		.543		26,878

Total Estimated Burden Hours: 26,878.
Status: Revision.
Contact: Duane T. McGough, HUD, (202) 708–1060; Wendy Swire, OMB, (202) 395–6880.

Dated: September 27, 1991.

[FR Doc. 91–23878 Filed 10–3–91; 8:45 am]
BILLING CODE 4210–01–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–91–1917; FR–2934–N–46]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: October 4, 1991.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD publishes a Notice, on a weekly basis, to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.). Today's Notice is for the purpose of announcing that no additional properties have been reviewed for suitability this week.

Dated: September 27, 1991.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 91–23757 Filed 10–3–91; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Take Pride in America Advisory Board; Meeting

AGENCY: Take Pride in America, Office of the Secretary, Department of the Interior.

ACTION: Notice of meeting of the Take Pride in America Advisory Board.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. appendix (1988), that a meeting of the Take Pride in America Advisory Board will be held on October 21, 1991 in the Director's Conference Room, 1140 11th Floor of the State of California, Department of Parks and Recreation Building, 1416 Ninth Street, Sacramento, California.

The Board will convene on Monday, October 21, 1991 at 10:30 a.m. and meet until 12 noon. The general business session reconvenes at 1:45 p.m. and is planned to conclude at 4:30 p.m. of that same day.

The second official meeting of the Take Pride in America Advisory Board will focus on two main topics: Strengthening the State Take Pride efforts (showcasing some of the best programs) and a long-range strategy for the program including its institutional structure. Other presentation will include discussions by the Board's three subcommittee chairmen. The Boards subcommittees are Outreach, the National Awards Program and Environmental Education. Presentations will include the history and the unique resources of the Take Pride program, including its institutional structure. Officials of the Department of Interior, the Take Pride in America staff, the Bureau of Land Management, the U.S. Forest Service, the Take Pride in California staff and members of the California Department of Parks and Recreation will also address the Board. The meeting will follow tours and briefings on national award winning California Take Pride projects.

The business meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. Anyone may file with the Board a written statement concerning matters to be discussed.

The Chairman of the Board will allow for public commentary, but may restrict the length of presentations as necessary to allow the Board to complete its agenda within the allotted time.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Ms. Mary Ann Gomez, Take Pride in America, U.S. Department of the Interior, room 5123, 1849 C Street, NW., Washington, DC 20240 (telephone 202–208–3726). Draft summary minutes of the meeting will be available for public inspection about 8 weeks after the meeting, in room 5123, Main Interior Building, 1849 C Street, NW., Washington, DC 20240.

Mary Ann Gomez,

Advisory Board Management Office.

[FR Doc. 91–23918 Filed 10–3–91; 8:45 am]
BILLING CODE 4310–10–M

Bureau of Land Management

[NV-930-91-4212-16; N-22926]

Termination of Desert Land Classification; NV

September 19, 1991.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action terminates desert land classification N-22926.

EFFECTIVE DATE: Termination of the classification is effective with the publication of this document.

FOR FURTHER INFORMATION CONTACT: Joanna Buel, BLM, Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520, 702-785-6512.

SUPPLEMENTARY INFORMATION: Pursuant to section 7 of the Taylor Grazing Act, as amended (43 U.S.C. 315f), desert land classification N-22926 is hereby terminated as to the following-described land:

Mt. Diablo Meridian, Nevada

T. 11 N., R. 58 E.,
Sec. 31, W½NE¼, E½SW¼.

The area described aggregates 160 acres in Nye County.

The classification was accomplished pursuant to the Desert Land Act, as amended and supplemented (43 U.S.C. 231, *et seq.*), and the Carey Act, as amended (43 U.S.C. 641) in response to a desert land application. The application was approved and entry was allowed. Entry to the land provided segregation from all other forms of appropriation under the public land laws, including location under the mining laws. A portion of the entry, as described above, did not prove up for patent and that portion has been relinquished. The relinquishment was noted to the official records on September 16, 1991, and on that date the land became open to the operation of the public land laws and location under the mining laws.

The classification as to said land is no longer considered appropriate and is hereby terminated.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 91-23866 Filed 10-3-91; 8:45 am]

BILLING CODE 4310-HC-M

[OR-030-01-4320-02: G1-390]

Meeting, Vale District Grazing Advisory Board and Vale District Multiple-Use Advisory Council

September 27, 1991.

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is given in accordance with Public Law 92-463 that a combined meeting of the Vale District Grazing Advisory Board and the Vale District Multiple-Use Advisory Council will be held November 5-6, 1991.

The agenda of the meeting will focus on changes in range and riparian area conditions in the Trout Creek Mountains. Other agenda items will include: The results of changes in grazing management on public lands in response to drought conditions, Update on the river management planning process for the Owyhee National Wild River System, Range improvement project plans for Fiscal Year 1992, and Wild horse roundups and adoptions.

The meeting is open to the public. Interested persons may make oral statements to the Board or Council, or may file written statements for the Board's or Council's consideration. Anyone wishing to make oral statements may do so at 2:30 p.m. PST on Tuesday, November 5. Members of the public who wish to take part in the field tour on Wednesday, November 6, must provide their own transportation.

Summary minutes of the Board's and Council's meeting will be maintained in the district office and will be available for public inspection, or personal copies may be purchased for the cost of duplication, within 30 days of the meeting.

DATES: The meeting will begin at 1 p.m. PST Tuesday, November 5, 1991, and continue to 5 p.m. A field trip to observe riparian and upland range conditions in the Trout Creek Mountains will take place from 8 a.m. to 5 p.m. PST on Wednesday, November 6.

ADDRESSES: The meeting will be held in the McDermitt Community Center, McDermitt, NV 89421.

FOR FURTHER INFORMATION CONTACT: Gerard Hubbard, Bureau of Land Management, Vale District, 100 Oregon Street, Vale, OR 97918, (Telephone 503 473-3144).

Jim May,

District Manager.

[FR Doc. 91-23865 Filed 10-3-91; 8:45 am]

BILLING CODE 4310-33-M

[UTU-67132 and UTU-67133]

Utah; Proposed Reinstatement of Terminated Oil and Gas Leases

In accordance with title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas leases UTU-67132 and UTU-67133 for lands in Grand County, Utah, was timely filed and required rentals and royalties accruing from July 1, 1991, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16-⅔ percent, respectively. The $500 administrative fee for each lease has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of leases UTU-67132 and UTU-67133 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the leases, effective July 1, 1991, subject to the original terms and conditions and the increased rental and royalty rates cited above.

Robert Lopez,

Chief, Minerals Adjudication Section.

[FR Doc. 91-23934 Filed 10-3-91; 8:45 am]

BILLING CODE 4310-DQ-M

[NM-940-02-4214-12; NM Misc. 122, 531, 532, 534, 625, 879, 881, 882, 883, 894, 895, NMNM 0557747, NMNM 0560109, and NMNM 0560182]

Termination of Bureau Motion Classifications and Order Providing for Opening of Land; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates New Mexico Bureau Motion Classifications as to land described below. The land will be opened to the public land laws generally, including the mining laws. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: November 4, 1991.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM, New Mexico State Office, P.O. Box 1449, 87504-1449, 505-988-6071.

SUPPLEMENTARY INFORMATION: Pursuant to the regulations set forth in 43 CFR 2461.5(c)(2) and New Mexico Bureau Motion Classifications dated January 21, 1959, May 2, 1961, May 9, 1961, December 19, 1961, December 20, 1961, July 30, 1965, and May 17, 1966, Bureau Motion Classifications NM Misc. 122, 531, 532, 534, 625, 879, 881, 882, 883, 894, 895, NMNM 0557747, NMNM 0560109, and NMNM 0560182 are hereby terminated insofar as they affect the following described land:

New Mexico Principal Meridian

NMNM 0560109 Min. Cl. 5/17/1966

T. 11 N., R. 9 W.,
Sec. 4, lots 3 and 4, S½NE¼, and SE¼;
Sec. 8;
Sec. 20, lots 1 to 4, W½NE¼, and SE¼;
Sec. 28, lots 1, 2, 5, and 6, N½NE¼, SE¼ NE¼, W½NW¼, and SW¼.
T. 12 N., R. 9 W.,
Sec. 4, lots 7 to 10, and 15 to 18.
NM Misc. 122 Min. Cl. 5/2/1961
T. 2 N., R. 18 W.,
Sec. 28, S½SW¼ and NW¼SW¼;
Sec. 29, E½;
Sec. 33, N½NW¼.
NM Misc. 881 Land Cl. 12/19/1961
T. 2 N., R. 19 W.,
Sec. 20, SW¼NW¼ and NW¼SW¼.
NM Misc. 625 (sand and gravel) 5/9/1961
T. 3 N., R. 19 W.,
Sec. 23, S½NW¼ and N½SW¼.
NM Misc. 882 Land Cl. 12/19/1961
T. 1 N., R. 20 W.,
Sec. 3, SW¼.
NM Misc. 894 Land Cl. 12/20/1961
T. 1 N., R. 20 W.,
Sec. 7, SE¼SW¼ and SW¼SE¼.
NM Misc. 895 Land Cl. 12/20/1961
T. 1 N., R. 20 W.,
Sec. 8, SW¼SW¼;
Sec. 17, NW¼NW¼.
NM Misc. 534 Land Cl. 1/21/1959
T. 1 N., R. 20 W.,
Sec. 12, NW¼SE¼.
NM Misc. 531 Land Cl. 1/21/1959
T. 1 N., R. 20 W.,
Sec. 25, NW¼NW¼.
NM Misc. 532 Land Cl. 1/21/1959
T. 1 N. R. 20 W.,
Sec. 26, SE¼NW¼.
NM Misc. 883 Land Cl. 12/19/1961
T. 2 N., R. 20 W.,
Sec. 20, NE¼.
NM Misc. 879 Land Cl. 12/19/1961
T. 2 N., R. 20 W.,
Sec. 21, SW¼NW¼.
NMNM 0557747 Min. Cl. 7/30/1965
T. 2 S., R. 4 W.,
Sec. 9, SW¼NE¼;
Sec. 10, lot 3;
Sec. 14, SW¼NE¼ and NE¼SE¼;
Sec. 24, lots 11 to 13, 18, and 19;
Sec. 25, lots 10, 11, 16 to 18, 21, and 22;
Sec. 36, lots 2, 4 to 9, 11, and 12.
Sec. 36, lots 2, 4 to 9, 11, and 12.
NMNM 0560182 Min. Cl. 5/17/1966
T. 9 S., R. 7 W.,
Sec. 5, NW¼SE¼;
Sec. 6, lots 8 to 11.

The areas described aggregate 4170.31 acres in Cibola, Catron, and Socorro Counties.

At 9 a.m. on November 4, 1991, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on November 4, 1991, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 9 a.m. November 4, 1991, the land will be opened to location and entry under the United States mining laws. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C., section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: September 25, 1991.

Tessie R. Anchondo,

Acting State Director.

[FR Doc. 91–23869 Filed 10–3–91; 8:45 am]

BILLING CODE 4310–FB–M

[G–950–G1–4830–17]

Change of Address/Relocation: New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Effective November 4, 1991, the mailing address for the New Mexico State Office will be: Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502–0115. Please address all correspondence to this address. The physical address will be 1474 Rodeo Rd., Santa Fe, New Mexico 87502.

Because of relocation of the BLM New Mexico State Office, certain records may not be available between November 8 and 22, 1991. Records will be unavailable for inspection on November 14 and November 15, 1991.

EFFECTIVE DATE: This notice is effective November 4, 1991.

FOR FURTHER INFORMATION CONTACT: Eileen G. Vigil, BLM, New Mexico State Office, 505–988–6047.

Dated: September 27, 1991.

Monte G. Jordan,

Associate State Director.

[FR Doc. 91–23868 Filed 10–3–91; 8:45 am]

BILLING CODE 4310–FB–M

[ID–060–01–4212–13; IDI–28567]

Realty Action; Exchange of Public Lands in Bonner County and Kootenai County; Idaho; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of correction of legal description.

SUMMARY: The notice of realty action published on Monday, September 9, 1991 in Volume 56, No. 174 of the **Federal Register**, page 46009, is corrected as follows:

1. In column two, under Boise, Meridian, Idaho, line one, "T.48N., R.1E." should read "T.48N., R.1W.".

2. In column two, under Boise, Meridian, Idaho, line six, "T.48N., R.1W." should read "T.48N., R.1E.".

All other information listed in the original notice remains unchanged.

Dated: September 26, 1991.

John B. O'Brien III,

Acting District Manager.

[FR Doc. 91–23919 Filed 10–3–91; 8:45 am]

BILLING CODE 4310–GG–M

[MT–020–01–4321–02]

Montana; Proposed Amendment to Billings Resource Management Plan and Revision of the Herd Management Area Plan, Pryor Mountain Wild Horse Range

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of intent to prepare an amendment to the Billings Resource Management Plan to establish a revised management level for wild horses and update range improvement work and land acquisition. In addition, the Pryor Mountain Wild Horse Range Herd Management Area Plan will be revised to update the management of these horses.

SUMMARY: An RMP amendment/Environmental Assessment will be prepared to establish the appropriate management level for the number of horses in the Pryor Mountain Wild Horse Herd. This amendment is required as the result of the loss of 2601 acres of land administered by the National Park Service known as the Sorenson Area and correction of acreage figures on other portions of the horse range.

A target management level for the number of horses for the entire wild horse range will be established and the separate stocking levels for each herd area will be eliminated. Range improvement work and land acquisition will also be discussed.

In addition, the Pryor Mountain Wild Horse Herd Management Area Activity Plan will be revised. The issues to be considered for revision will include the habitat objectives, herd size parameters, capture methods, removal characteristics, removal dates, relocation, land adjustment, adoption program, range improvement projects

and monitoring studies on vegetation, wildlife and wild horses.

DATES: On or before November 4, 1991, interested parties may comment on this proposal.

FOR FURTHER INFORMATION CONTACT: David Jaynes of the Bureau of Land Management, Billings Resource Area, 810 East Main, Billings, Montana 59105, telephone 406/657–6262.

SUPPLEMENTARY INFORMATION: Public meetings will be held in Lovell, Wyoming, and Billings, Montana. The time, date and location will be announced in the "Lovell Chronicle" and "Billings Gazette".

Dated: September 27, 1991.

Arnold E. Dougan,

Acting District Manager.

[FR Doc. 91–23870 Filed 10–3–91; 8:45 am]

BILLING CODE 4310–DN–M

[CO–050–4410–08]

Availability of the San Luis Proposed Resource Management Plan/Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: The Bureau of Land Management, Cañon City District has completed the proposed resource management plan/final environmental impact statement for the San Luis Resource Area (SLRA) in accordance with the Federal Land Policy and Management Act of 1976 (FLPMA) and 43 CFR 1600. This document is now available to the public for a 30-day protest period.

SUMMARY: A proposed resource management plan and final environmental impact statement for the San Luis Resource Area has been prepared and is now available to the public. This plan, when completed, will replace and supercede the two existing land use plans and other related environmental documents. This plan will provide the overall framework for managing BLM-administered land and mineral resources in the SLRA for the next 15 to 20 years. Located in south-central Colorado, the SLRA encompasses 520,677 acres of Federal surface estate and approximately 621,000 acres of Federal subsurface mineral estate within Alamosa, Canoejos, Costilla, Rio Grande, and Saguache Counties. Persons or organizations who participated in this planning process and believe that approval of the resource management plan would be in error may protest. Protests must be in writing and should be sent by certified mail, return receipt requested to Director (76), Bureau of Land Management, 1849 "C" Street, NW., Washington, DC 20240. Protests must contain at a minimum the following information:

1. The name, mailing address, telephone number, and interest of the person filing the protest.

2. A statement of the issue or issues being protested.

3. A statement of the part or parts of the San Luis Proposed Resource Management Plan/Final Environmental Impact Statement being protested. To the extent possible, this should be done by reference to specific pages, paragraphs, sections, tables, maps, etc., included in the document.

4. A copy of all documents addressing the issue or issues that you submitted during the planning process or a reference to the date the issue or issues were discussed by you for the record. Only those persons or organizations who participated in this planning process leading to this RMP may protest.

5. A concise statement explaining why the Colorado BLM State Director's decision is believed to be incorrect. As much as possible, reference or cite the planning documents, environmental analysis documents, available planning records (e.g., meeting minutes or summaries, correspondence, etc.). A protest that only expresses disagreement with the Colorado State Director's proposed decision without any data will not be considered.

DATES: The proposed San Luis Resource Management Plan/Environmental Impact Statement 30-day protest period begins on October 4, 1991, and ends at close of business on November 4, 1991.

FOR FURTHER INFORMATION CONTACT: Interested parties may obtain a copy of the proposed resource management plan/final environmental impact statement by writing RMP Project, Bureau of Land Management P.O. Box 1171, Cañon City, CO 81215–1171 or by calling Dave Taliaferro, RMP Project Manager, (719) 275–0631. Copies may also be obtained from: San Louis Resource Area Office, 1921 State Street, Alamosa, CO 81101; Cañon City District Office, 3170 East Main Street, Cañon City, CO 81212; Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215.

SUPPLEMENTARY INFORMATION: Some of the highlights of the San Luis Proposed RMP/Final EIA are as follows:

1. The proposed plan is the result of integration of the preferred alternative in the draft RMP/EIS published in 1989 and public input received during the comment period.

2. The plan focuses on the principles of multiple use and sustained yield as mandated by section 202 of FLPMA. Decisions within the plan cover a 15- to 20-year period.

3. The plan contains 133 decisions, which establish resource condition objectives, provide land use allocations, and direct management actions on BLM-administered lands within the SLRA.

4. The plan designates nine areas of BLM-administered lands (131,380 acres) as ACECs where special protective management is needed. These areas are:

- Trickle Mountain: 44,521 acres; T.45N.,R.5E.; protect and enhance special wildlife, scenic, special status plants, and other significant natural values.
- Sand Castle Area: 3,595 acres; T.40N.,R.13E.; protect significant cultural and ecological values.
- Blanca Area: 9,147 acres; T.38N.,R.11E.; maintain and improve wetlands, waterfowl and fishing production, and enhance recreation values.
- Elephant Rocks Area: 1,852 acres; T.40N.,R.6E.; protect unique geological and significant scenic values; enhance and protect special status plants and recreation values.
- Ra Jadero Canyon: 3,632 acres, T.32N.,R.5E.; protect special status plants and other significant natural values.
- Los Mogotes Area: 33,456 acres, T.31N.,R.7E.; protect and enhance big game crucial winter habitat, birthing areas, and special status plant values.
- San Luis Hills: 28,713 acres; T.33N., R.10.E; maintain and enhance significant natural values, including the unique Flat Top Mountain area.
- Rio Grande River Corridor: 2,640 acres; T.33N.,R.11E.; protect significant natural and scenic values; protect and enhance recreation, and wildlife values along this 22-mile corridor.
- Cumbres and Toltec Scenic Railroad Corridor: 3,824 acres, T.32N., R.8E.; protect significant scenic, historic, and other natural values along this corridor.

Extensive protective and management measures will be provided to minimize surface disturbing actitivies (e.g., off-highway vehicle limitations, mineral development restrictions, etc.) that would adversely affect the significant values within these nine ACECs. Coordinated resource management activity plan (CRMAPs) will be developed to detail these protective measures over the first 3 years of plan implementation.

5. Pursuant to the Wild and Scenic Rivers Act, the plan analyzed 32 creek/

river segments for potential designation as wild and scenic rivers. Three segments of the Rio Grande River met the eligibility criteria and were carried into the process for further study. Forty-one miles of the Rio Grande River were determined to be eligible. Of these 41 miles, 33 miles were classified as "scenic" and 8 miles were classified as "wild"; 22 miles were determined suitable for inclusion into the national system. A preliminary administrative recommendation is made in the RMP for national recognition and protection of these 22 miles; i.e., recommendation for designation as a wild and scenic river, a national conservation area, or some other form of national legislative action that will provide enduring protection.

Donnie R. Sparks,

District Manager.

[FR Doc. 91-23287 Filed 10-3-91; 8:45 am]

BILLING CODE 4310-JB-M

[NV-943-91-4214-10; N-219]

Termination of Segregative Effect of Withdrawal Application; Nevada

September 19,1991.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action will terminate the segregative effect as to 1,583,000 acres of Desert National Wildlife Refuge lands included in an application for mineral withdrawal.

EFFECTIVE DATE: October 20, 1991.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM Nevada State Office, P.O. Box 12000, Reno, Nevada 89509, 702-785-6526.

SUPPLEMENTARY INFORMATION: Pursuant to the regulations contained in 43 CFR 2310.2-1(e), at 9 a.m. on October 20, 1991, the following described lands will be relieved of the segregative effect of mineral withdrawal application N-219. The U.S. Fish and Wildlife Service withdrawal application will continue to be processed unless it is canceled or denied:

Mount Diablo Meridian, Nevada

Tps. 9 to 15 S., inclusive, R. 54 E., that portion located within Lincoln and Clark Counties.
Tps. 9 to 15 S., inclusive, R. 55 E.
Tps. 9 to 15 S., inclusive, R. 55½ E.
Tps. 9 to 15 S., inclusive, R. 56 E.
Tps. 9 to 15 S., inclusive, R. 57 E.
T. 16 S., R. 57 E.,
  Secs. 1 to 9, inclusive.
Tps. 9 to 15 S., inclusive, R. 58 E.
  T. 16 S., R. 58 E.,
  Secs. 1 to 27, inclusive;
  Secs. 34, 35, and 36.
Tps. 9 to 15 S., R. 59 E.
T. 16 S., R. 59 E.,
  Secs. 1 to 30, inclusive;
  Sec. 31, NE¼, W½SE¼;
  Secs. 32 to 36, inclusive.
T. 17 S., R. 59 E.,
  Secs. 1 to 18, inclusive;
  Secs. 21 to 28, inclusive;
  Secs. 33 to 36, inclusive.
Tps. 9 to 12 S. , inclusive, R. 60 E.
T. 12½ S., R. 60 E.
Tps. 13 to 17 S., inclusive, R. 60 E.
T. 18 S., R. 60 E.
  Secs. 1 to 18, inclusive;
  Secs. 22, 23, and 24;
  Sec. 25, N½;
  Sec. 26, N½;
  Sec. 27, N½.
Tps. 9 to 12 S., inclusive, R. 61 E.
T. 12½ S., R. 61 E.
Tps. 13 to 18 S., inclusive, R. 61 E.
T. 9 S., R. 62 E.,
  Sec. 4, S½S½;
  Sec. 5, NW¼SW¼, S½S½;
  Sec. 6, SE¼NE¼, W½NE¼, NW¼, S½;
  Secs. 7, 8, and 9;
  Sec. 10, W½E½, W½;
  Sec. 15, W½E½, W½;
  Secs. 16 to 21, inclusive;
  Sec. 22, W½E½, W½;
  Sec. 27, W½E½, W½;
  Secs. 28 to 33, inclusive;
  Sec. 34, W½E½, W½.
T. 10 S., R. 62 E.,
  Secs. 3 to 10, inclusive;
  Sec. 14, SE¼NW¼, W½NW¼, SW¼;
  Secs. 15 to 22, inclusive;
  Sec. 23, W½, W½SE¼;
  Secs. 26 to 35, inclusive;
  Sec. 36, W½W½.
T. 11 S., R. 62 E.,
  Sec. 1, W½W½;
  Secs. 2 to 36, inclusive.
T. 12 S., R. 62 E.
T. 12½ S., R. 62 E.
Tps. 13 to 17 S., inclusive, R. 62 E.
T. 18 S., R. 62 E.,
  Secs. 1 to 31, inclusive;
  Secs. 32 to 36, inclusive.

The area described contains approximately 1,583,000 acres in Lincoln and Clark Counties.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 91-23867 Filed 10-3-91; 8:45 am]

BILLING CODE 4310-HC-M

[UT-942-4214-11; UTU-0146037 et al.]

Proposed Continuation of Withdrawal; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service proposes that several withdrawals embracing 471.63 acres be continued for an additional 30 years. The lands have been and will remain closed to the United States mining laws, but have been and will remain open to such uses as may be made of National Forest System lands including mineral leasing.

DATES: Comments should be received January 2, 1992.

ADDRESSES: Comments should be sent to the Utah State Director, BLM, P.O. Box 45155, Salt Lake City, Utah 84145-0155.

FOR FURTHER INFORMATION CONTACT: Michael Barnes, Utah State Office, 324 S. State Street, suite 301, P.O. Box 45155, Salt Lake City, Utah 84145-0155, 801-539-4118.

The United States Department of Agriculture, Forest Service, proposes that existing National Forest System land withdrawals identified below, be continued for a period of 30 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

Salt Lake Meridian, Utah

Sawtooth National Forest

UTU-13113, PLO 5047, Clear Creek Recreation Area (240 acres) T. 14 N., R. 13 W.,
  Sec. 10, S½SW¼NE¼, SE¼NE¼, S½SE¼NW¼, N½SW¼, N½S½SW¼, NW¼SE¼.

Manti-LaSal National Forest

UTU-6443, PLO 4567 as amended by PLO 4664, Chicken Creek Campground (7.5 acres)
T. 15 S., R. 1 E.,
  Sec. 2, SE¼SW¼SW¼SE¼;
  Sec. 11, NW¼NE¼NW¼NE¼, NE¼NW¼NW¼NE¼
UTU-7566, PLO 4744, Maple Canyon Recreation Area (15 acres) T. 14 S., R. 2 E.,
  Sec. 34, W½SW¼SW¼NE¼, NW¼NW¼SE¼
UTU-049508, PLO 3218, Oowah Lake Campground (25 acres)
T. 26 S., R. 24 E.,
  Sec. 33, SE¼NW¼NE¼NE¼, SW¼NE¼NE¼, SE½SE¼NW¼NE¼, E½NE¼SW¼NE¼, W½NW¼SE¼NE¼.

Ashley National Forest

UTU-0115839, PLO 3491, Browne Lake Campground (20 acres)
T. 2 N., R. 19 E.,
  Sec. 32, NE¼SW¼SW¼, NW¼SE¼SW¼.

Uintah Special Meridian

Ashley National Forest

UTU-049508, PLO 3218, Uinta River Recreation Area (101.13 acres)
T. 3 N., R. 2 W.,
  Sec. 19, A parcel of land more particularly described as: Beginning at point 660 feet due East of the SW Corner of Section 19; thence due East 660 feet, thence due

North 1980 feet, thence due West 660 feet, thence due South 1980 feet to the point of beginning, all distances being more or less.
Sec. 19, SW¼NE¼SW¼, W½SE¼SW¼;
Sec. 29, W½SW¼SW¼;
Sec. 30, SE¼SW¼NE¼, NE¼SE¼SE¼.
Uinta River Summer Home Area (20 acres)
T. 2 N., R. 2 W.,
Sec. 4, E½SE¼SE¼SW¼, S½NW¼S W¼SE¼, SW¼SW¼SE¼.
Uinta Park Administrative Area (15 acres)
T. 3 N., R. 2 W.,
Sec. 30, NW¼NE¼SE¼, E½NE¼N W¼SE¼.
Pole Creek Lake Camp and Picnic Ground (20 acres)
T. 3 N., R. 2 W.,
Sec. 12, NW¼NW¼NE¼, NE¼NE¼N W¼.
Paradise Park Camp and Picnic Ground (8 acres)
T. 3 N., R. 1 E.,
Sec. 8, A parcel of land located entirely in the protracted SW¼SW¼ of sec. 8, more particularly described as follows: Beginning at a point on the southern boundary of said parcel. Said point bearing N. 83° E., 1050 feet, more or less, from the southwest section corner of section 8. Thence N. 45° E., 135 feet, thence N. 5° W., 400 feet, thence N. 45° W., 625 feet, thence S. 45° W., 473 feet, thence S. 45° e., 358 feet to the point of beginning, all distances being more or less.

Salt Lake Meridian, Utah

Uinta National Forest

North Fork of the American Fork Canyon Watershed
T. 3 S., R. 3 E.,
Sec. 8, portions of lots 12, 13, 14, lying in Utah county;
Sec. 10, lots 4 and 7 to 10 incl.;
Sec. 14, lots 3, 6, 7, 8, SE¼SW¼, and W½SW¼SE¼;
Sec. 15, lots 1 to 12, incl., lots 14 and 15, W½NE¼, and NE¼NW¼;
Sec. 16, lots 1 to 12, incl.;
Sec. 17, lots 1 to 17, incl.;
Sec. 18, all national forest land in E½ lying in Utah County;
Sec. 19, lots 1 to 10, incl., E½NW¼, and E½SW¼;
Sec. 20, lots 1 to 8, incl.;
Sec. 21, lots 1 to 14, incl.;
Sec. 22, lots 2 to 12, incl., SE¼SE¼, NE¼NW¼, and Mineral Survey No. 6399, that part known as Utah;
Sec. 23, lots 1, 2, W½NE¼, W½E½NE¼, E½NW¼, SW¼SE¼ and Mineral Survey No. 6399, that part known as Utah;
Sec. 26, N½SW¼;
Sec. 27, lots 1 to 8, incl., SE¼NE¼, and Mineral Survey No. 5890, Dutchman Flat;
Sec. 28, lots 1 to 4, incl., 6, 7, 10 to 15 incl., SE¼SE¼, Mineral Survey 5890, Dutchman Flat, and Mineral Survey 7131, that part known as 45th Star;
Sec. 29, lots 1 to 3 and 5 to 11, incl., E½SW¼, W½SE¼, SW¼NE¼, and NE¼NE¼;
Sec. 30, lots 1 to 5, and 8 to 15, incl., SE¼SE¼, E½NW¼, and Mineral Survey No. 6615, those parts known as Henrietta, and J. Thomas;
Sec. 31, lots 1 to 4, incl., NE¼NW¼, W½NE¼, SE¼NW¼, and E½SW¼;
Sec. 34, E½SE¼.
T. 4 S., R. 2 E.,
Sec. 1, All land east of the 7,600 foot elevation contour in lots 1 and 8.
T. 4 S., R. 3 E.,
Sec. 6, lots 3 to 5, incl., and SE¼NW¼.

The areas described aggregate approximately 471.63 acres in Salt Lake, Wasatch, Utah, Box Elder, and Juab Counties.

The purpose of these withdrawals is for the administration and protection of a watershed area, 3 campgrounds, 3 recreation areas, 1 summer home area, 1 administrative site and 2 picnic and camp ares. No change is proposed in the purpose or segregative effect of the withdrawals. The lands have been and will remain closed to the United States mining laws, but have been and will remain open to such uses as may be made of National Forest System lands including mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawals, may present their views in writing to the Utah State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether the withdrawals will be continued and if so for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: September 27, 1991.

Ted Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 91-23929 Filed 10-3-91; 8:45 am]

BILLING CODE 4310-DQ-M

[UT-942-4214-11; UTU-2679 et al]

Proposed Continuation of Withdrawal; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service proposes that several withdrawals embracing 1,493.02 acres be continued for an additional 20 years. The lands have been and will remain closed to the public land laws including location under the United States mining laws. The lands have been and will remain open to mineral leasing.

DATES: Comments should be received by January 2, 1991.

ADDRESSES: Comments should be sent to the Utah State Director, BLM, P.O. Box 45155, Salt Lake City, Utah 84145-0155.

FOR FURTHER INFORMATION CONTACT: Michael Barnes, Utah State Office, 324 S. State Street, Suite 301, P.O. Box 45155, Salt Lake City, Utah 84145-0155, 801-539-4118.

The United States Department of Agriculture, Forest Service, proposes that existing National Forest System withdrawals identified below, be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

Salt Lake Meridian, Utah

Ashley National Forest

UTU-2679, Public Land Order 4291, Spirit Lake Recreation Area, (59 acres)
T. 1 N., R. 17 E., unsurveyed.

When surveyed the area will probably be in the N½ of sec. 10, more particularly described as:

Beginning at point "A", which is a square concrete post approximately 2 feet long and 8 inches in diameter, set in the ground approximately 15 to 18 inches and which is located N.31°45'E., 340 feet from the northeast corner of the Spirit Lake Lodge Building; thence by metes and bounds, N. 70°W., 455 feet; S. 24EW., 650 feet; S. 60°30'E., 250 feet; S. 25°E., 170 feet; S. 80°30'E., 395 feet; S. 48°45'E., 320 feet; N. 64°E., 162 feet; N. 83°E., 212 feet; S. 54°E., 125 feet; S. 79°E., 114 feet; N. 58°30;E., 208 feet; N. 10°W., 355 feet; N. 31°E., 220 feet; N. 72°15'W., 1,075 feet to the point of beginning.

Uintah Special Meridian

Grandview Recreation Area, (30 acres)

T. 2 N., R. 8 W.,
Sec. 17, W½NW¼SW¼;
Sec. 18, SE¼NE¼SE¼.

Salt Lake Meridian

Ashley National Forest

UTU-015498, Public Land Order 5154, Little Brush Creek Cave, (1,404.02 acres)
T. 1 S., R. 21 E.,
Sec. 25, E½NE¼, NE¼SE¼.
T. 1 S., R. 22 E.,
Sec. 29, W½, SE¼;

Sec. 30, lots 1–3, E½, E½NW¼, NE¼SW¼;
Sec. 32, N½.

The areas described aggregate approximately 1,493.02 acres in Uintah, Duchesne, Daggett, and Summit Counties.

The purpose of these withdrawals is for the administration and protection of the 3 recreation areas. No change is proposed in the purpose or segregative effect of the withdrawals. The lands have been and will remain closed to the public land laws including location under the United States mining laws. The lands have been and will remain open to mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawals, may present their views in writing to the Utah State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether the withdrawals will be continued and if so for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: September 27, 1991.

Ted Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 91–23930 Filed 10–3–91; 8:45 am]

BILLING CODE 4310–DQ–M

[UT–942–4214–11; UTU–09556 et al]

Proposed Continuation of Withdrawal; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service proposes that several withdrawals embracing 8,175.24 acres be continued for an additional 100 years. The lands have been and will remain closed to the public land laws including location under the United States mining laws. The lands have been and will remain open to mineral leasing.

DATES: Comments should be received by January 2, 1992.

ADDRESSES: Comments should be sent to the Utah State Director, BLM, P.O. Box 45155, Salt Lake City, Utah 84145–0155.

FOR FURTHER INFORMATION CONTACT: Michael Barnes, Utah State Office, 324 S. State Street, suite 301, P.O. Box 45155, Salt Lake City, Utah 84145–0155, 801–539–4118.

The United States Department of Agriculture, Forest Service, proposes that existing National Forest System withdrawals identified below, be continued for a period of 30 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

Salt Lake Meridian

Manti LaSal National Forest

UTU–09556, Public Land Order 1766, (4,535.72 acres)
Great Basin Experiment Station
T. 17 S., R. 4 E.,
Sec. 15, S½S½SE¼;
Sec. 16, SW¼SW¼;
Sec. 17, SNE¼, NW¼NW¼, S½NW¼, S½;
Sec. 18, S½ lot 1, lots 2, 3, 4, S½N½NE¼, S½NE¼, S½NE¼NW¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 19, lot 1, NE¼NW¼;
Sec. 20, NE¼, N½N½NE¼NW¼, SE¼NE¼NE¼NW¼, SW¼NW¼NE¼NW¼, E½SE¼NE¼NW¼, NW¼NW¼, E½SE¼;
Sec. 21, S½NE¼, NW¼, S½;
Sec. 22, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 23, W½SW¼;
Sec. 26, W½W½;
Sec. 27, all;
Sec. 28, N½, N½SE¼, SE¼SE¼;
Sec. 29, NE¼NE¼;
Sec. 33, NE¼NE¼;
Sec. 34, N½, N½SE¼;
Sec. 35, W½NW¼;
UTU–028260 and UTU–081486
Hammond Canyon Archaeological and Scenic Area, (3,639.52 acres)
T. 35 S., R. 19 E., (unsurveyed)

Beginning at the SW corner of lot 1, Sec. 30, T. 35 S., R. 20 E., thence W. 1,320 feet, thence N. 1,320 feet, thence W. 2,640 feet, thence S. 6,600 feet, thence E. 3,960 feet to a point on the west line on T. 35 S., R. 20 E., thence N. along said township line 5,280 feet, more or less, to the point of beginning, containing 560 acres more or less. When surveyed the tract will probably be in sections 25 and 36, of T. 35 S., R. 19 E.

T. 35 S., R. 20 E.,
Sec. 20, SE¼NE¼, SW¼, NE¼SE¼, S½SE¼;
Sec. 21, NW¼SW¼, S½SW¼;
Sec. 27, W½;
Sec. 28, All;
Sec. 29, All;
Sec. 30, lots 1–4, S½NE¼, E½NE¼, SE¼;
Sec. 31, Lot 1, N½NE¼, NE¼NW¼;
Sec. 32, N½N½;
Sec. 33, N½N½.

The area described aggregates approximately 8,175.24 acres in San Juan and Sanpete Counties.

The purpose of these withdrawals is for the administration and protection of the 8 recreation areas and 1 administrative site. No change is proposed in the purpose or segregate effect of the withdrawals. The lands have been and will remain closed to the public land laws including location under the United States mining laws. The lands have been and will remain open to mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawals, may present their views in writing to the Utah State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether the withdrawals will be continued and if so for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: September 27, 1991.

Ted Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 91–23931 Filed 10–3–91; 8:45 am]

BILLING CODE 4310–DQ–M

[UT–942–4214–11; UTU–014955 et al.]

Proposed Continuation of Withdrawal; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service proposes that several withdrawals embracing 664.94 acres be continued for an additional 30 years. The lands have been and will remain closed to the public land laws including location under the United States mining laws. The lands have been and will remain open to mineral leasing.

DATES: Comments should be received by January 2, 1992.

ADDRESSES: Comments should be sent to the Utah State Director, BLM, P.O. Box 45155, Salt Lake City, Utah 84145–0155.

FOR FURTHER INFORMATION CONTACT: Michael Barnes, Utah State Office, 324 S. State Street, Suite 301, P.O. Box 45155, Salt Lake City, Utah 84145–0155, 801–539–4118.

The United States Department of Agriculture, Forest Service, proposes that existing National Forest System withdrawals identified below be continued for a period of 30 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

Salt Lake Meridian

Uinta National Forest

UTU–014955, Public Land Order 1579, (482.44 acres)
Aspen Grove Recreation Area
T. 5 S., R. 3 E.,
Sec. 4, all of S½ of lot 7 south of the centerline of State Highway 92;
Sec. 9, lot 1, NE¼NW¼NE¼.
Granite Flat Recreation Area
T. 4 S., R. 3 E.,
Sec. 7, S½N½ of lot 1, S½ of lot 1, S½NW¼NE¼NW¼, S½NE¼NW¼, SE¼NE¼, N½NE¼NE¼SW¼, W½NE¼NW¼SE¼, E½SE¼NW¼SE¼, S½NE¼SE¼, NW¼NW¼SE¼, SW¼SW¼NE¼.
Mutual Dell Recreation Area
T. 4 S., R. 2 E.,
Sec. 30, all of NE¼NE¼ south of the centerline of State Route 92.
Silver Lake Flat Recreation Area
T. 4 S., R. 3 E.,
Sec. 6, all of lot 6 south of Silver Creek, lot 9;
South Fork-Tibble Fork Recreation Area
T. 4 S., R. 3 E.,
Sec. 7, W½SE¼SE¼, W½SE¼SE¼SE¼, SE¼SE¼SE¼SE¼;
Sec. 8, NW¼SW¼NW¼SW¼, S½SW¼SW¼SW¼, SW¼SE¼SW¼SW¼;
Sec. 17, W½NE¼NW¼NW¼, NW¼NW¼NW¼, N½SW¼NWNW¼;
Sec. 18, NE¼NE¼NE¼, E½NW¼NE¼NE¼, N½SE¼NE¼NE¼.
Timpanogos Cave Recreation Area
T. 4 S., R. 2 E.,
Sec. 24, all of the S½S½SW¼ laying outside the Lone Peak wilderness boundary;
Sec. 25, all of the N½NW¼NW¼ lying outside of the Lone Peak wilderness boundary, NW¼NE¼NE¼NW, NW¼NE¼NW, N½SW¼NW¼NW¼;
Sec. 26, all of the N½N½NE¼ lying outside of the Lone Peak wilderness boudary, all of the S½NW¼NE¼ lying outside of the Lone Peak wilderness boundary, N½S½NE¼NE¼.
Timpooneke Recreation Area
T. 4 S., R. 3 E.,
Sec. 29, SW¼SE¼SW¼, all of SE¼SE¼SW¼ west of the centerline of State Route 92;
Sec. 31, S½NE¼NE¼, SE¼NW¼NE¼, N½NE¼SW¼NE¼, N½N½SE¼NE¼;
Sec. 32, NW¼NE¼NW¼, NE¼NW¼NW¼, all of NE¼NE¼NW¼ north and west of the centerline of State Route 92.

Salt Lake Meridian

Dixie National Forest

UTU–42838, Secretarial Order, (160 acres)
Duck Creek Administrative Site and Recreation Area
T. 38 S., R. 8 W.,
Sec. 12, SW¼.

Salt Lake Meridian

Manti-LaSal National Forest

UTU–42843, Secretarial Order, (22.50 acres)
Ferron Reservoir Administrative Site
T. 19 S., R. 4 E.,
Sec. 22, SW¼NW¼SE¼, N½SE¼NW¼SE¼, S½NE¼NW¼SE¼, SE¼NW¼NW¼SE¼.

The areas described aggregate approximately 664.94 acres in Sanpete, Emery, Kane, Iron, Garfield, and Utah Counties.

The purpose of these withdrawals is for the administration and protection of the 8 recreation areas and 1 administrative site. No change is proposed in the purpose or segregative effect of the withdrawals. The lands have been and will remain closed to the public land laws including location under the United States mining laws. The lands have been and will remain open to mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawals, may present their views in writing to the Utah State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether the withdrawals will be continued and if so for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: September 27, 1991.

Ted Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 91–23932 Filed 10–3–91; 8:45 am]

BILLING CODE 4310–DQ–M

[UT–942–4214–11; UTU–4282 et al]

Proposed Continuation of Withdrawal; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service proposes that several withdrawals embracing 180 acres be continued for an additional 40 years. The lands have been and will remain closed to the public land laws including location under the United States mining laws. The lands have been and will remain open to mineral leasing.

DATES: Comments should be received by January 2, 1992.

ADDRESSES: Comments should be sent to the Utah State Director, BLM, P.O. Box 45155, Salt Lake City, Utah 84145–0155.

FOR FURTHER INFORMATION CONTACT: Michael Barnes, Utah State Office, 324 S. State Street, suite 301, P.O. Box 45155, Salt Lake City, Utah 84145–0155, 801–539–4118.

The United States Department of Agriculture, Forest Service, proposes that existing National Forest System withdrawals identified below, be continued for a period of 30 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

Salt Lake Meridian

Manti-LaSal National Forest
UTU–42842, Secretarial Order, (25 acres)
Warner Administrative Site
T. 26 S., R. 24 E.,
Sec. 21, S½S½SW¼SE¼;
Sec. 28, NW¼NW¼NE¼, and N½NE¼NW¼NE¼.
UTU–42844 and UTU–42860, Secretarial Order, (155 acres)
Baker Administrative Site
T. 33 S., R. 23 E.,
Sec. 26, SE¼SW¼;
Sec. 35, N½NE¼, NE¼NE¼NW¼, E½NW¼NE¼NW¼, S½NE¼NW¼;

The area described aggregates approximately 180 acres in San Juan and Grand Counties.

The purpose of these withdrawals is for the administration and protection of the 2 administrative sites. No change is proposed in the purpose or segregative effect of the withdrawals. The lands have been and will remain closed to the public land laws including location under the United States mining laws. The lands have been and will remain open to mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawals, may present their views in writing to the Utah State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether the withdrawals will be continued and if so for how long. The final determination on the continuation of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

Dated: September 27, 1991.

Ted Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 91-23933 Filed 10-3-91; 8:45 am]

BILLING CODE 4310-DQ-M

National Park Service

Rocky Mountain National Park, Colorado; Order Transferring Jurisdiction of Certain Lands to the Department of Agriculture

AGENCY: National Park Service, Interior.

ACTION: Transfer of administrative jurisdiction of land.

SUMMARY: Pursuant to the authority contained in the Act of October 11, 1978, 92 Stat. 1096, 16 U.S.C. 460jj-1(e), administrative jurisdiction of certain lands acquired by the National Park Service adjacent to Rocky Mountain National Park is being transferred to the Department of Agriculture, United States Forest Service, to be administered as part of the Arapaho National Recreation Area.

EFFECTIVE DATE: The effective date of this order is July 19, 1991.

FOR FURTHER INFORMATION CONTACT: Richard A. Young, Chief, Land Resources Division, Rocky Mountain Region, 12795 West Alameda Parkway, P.O. Box 25287, Denver, Colorado 80225-0287.

SUPPLEMENTARY INFORMATION: The above-cited authority authorizes the transfer, without consideration, to the administrative jurisdiction of the Secretary of Agriculture of any Federal lands located within the Arapaho Nation Recreation Area.

The Act of December 22, 1980, 94 Stat. 3271, 16 U.S.C. 192b-9, established the common boundary between Rocky Mountain National Park and the Arapaho National Recreation Area as the easterly bank of the Colorado River.

The herein described lands were acquired by the National Park Service as an uneconomic remnant pursuant to the provisions of the Act of January 2, 1971, 84 Stat. 1904, 42 U.S.C. 4651(9), as amended, by two deeds, the first dated April 19, 1990, recorded in the land records of Grand County, Colorado, in Book 463, Page 52, the second dated October 17, 1990, recorded in Book 470, Page 648.

The lands are located in the SW¼ of section 19, Township 3 North, Range 75 West, Sixth Principal Meridian, Grand County, Colorado, more particularly described as:

All that portion of the bed of the Colorado River lying within the limits of Tracts 1, 2 and 3, AA—Ranch Subdivision Exemption, according to the official plat thereof on file in the Office of the Clerk, and Recorder of Grand County, Colorado, under Reception Number 247646, containing 2.77 acres, more or less, together with the bridge thereon.

Subject to valid existing non-Federal rights, if any, the administrative jurisdiction of said lands and bridge is hereby transferred to the Department of Agriculture to be administered as part of the Arapaho National Recreation Area, in accordance with existing and future applicable laws and regulations.

Dated: July 19, 1991.

L. Lorraine Mintzmyer,

Regional Director.

[FR Doc. 91-23840 Filed 10-3-91; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

September 23, 1991.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published.

Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu, on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Lewis B. Arnold, on (202) 514-4305.

If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis B. Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

This notice contains collections for which an expedited review has been requested from the Office of Management and Budget. In an effort to fully inform the reporting public, these entries are printed in full, including instructions, at the end of this notice. Written comments concerning the forms included in this notice should be sent to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, 425 I Street NW., room 5304, Washington, DC 20536, within 15 days after the date of this notice in the Federal Register.

Revision of Currently Approved Collections

An Expedited Review Has Been Requested For These Entries

(1) Application to Replace Alien Registration Card.

(2) I–90, Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This information will be used to determine eligibility for a replacement alien registration card.
(5) 242,000 annual respondents at .90 hours per response.
(6) 217,800 annual burden hours.
(7) Not applicable under 3504(h).

(1) Application for Replacement/Initial Nonimmigrant Arrival-Departure Document
(2) I–102, Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This information will be used to determine eligibility for a replacement nonimmigrant arrival-departure document, Form I–94.
(5) 16,000 annual respondents at .41 hours per response.
(6) 6,560 annual burden hours.
(7) Not applicable under 3504(h).

(1) Petition for a Nonimmigrant Worker
(2) I–129, Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This form will be used for an employer to petition for an alien to come to the U.S. temporarily to perform services or labor or to receive training. The form is also for an employer to petition for an extension of stay or change of status for a nonimmigrant worker. The form merges the prior I–129L, I–126, and I–539 and I–506 as they relate to temporary workers.
(5) 223,000 annual respondents at 1.41 hours per response.
(6) 314,430 annual burden hours.
(7) Not applicable under 3504(h).

(1) Petition Based on Blanket L Petition
(2) I–129s, Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households, businesses or other for-profit. This form is for an employer to petition for temporary workers as L–1 nonimmigrant intra-company transfers under a blanket L petition approval.
(5) 5,000 annual respondents at .60 hours per response.
(6) 3,000 annual burden hours.
(7) Not applicable under 3504(h).

(1) Immigrant Petition for Relative, Fiance(e) or Orphan
(2) I–130, Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This form is for a United States citizen, permanent resident, refugee, or person granted asylum, to petition for a relative, fiance(e) or orphan for the purpose of their immigration to the U.S. The form replaces separate Forms I–130, I–129f, I–600, I–600a, and I–730.
(5) 870,000 annual respondents at 1.5 hours per response.
(6) 1,305,000 annual burden hours.
(7) Not applicable under 3504(h).

(1) Immigrant Petition for Alien Workers
(2) I–140, Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households, businesses or other for profit. The data collected on this form will be used by the Service to determine eligibility for the requested immigration benefit.
(5) 186,000 annual respondents at 1 hour per response.
(6) 186,000 annual burden hours.
(7) Not applicable under 3504(h).

(1) Application to File Declaration of Intention
(2) N–300, Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. The information from this form will be used to apply and determine eligibility for a declaration of intention to become a citizen of the United States.
(5) 1,000 annual respondents at .75 hours per response.
(6) 750 annual burden hours.
(7) Not applicable under 3504(h).

New Collection

An Expedited Review Has Been Requested For This Entry

(1) Application for Action on an Approved Application or Petition.
(2) I–824, Immigration and Naturalization Service (3).
(3) On occasion.
(4) Individuals or households. This application and information will be used to request and determine eligibility for certain actions after another immigration benefit has been accorded. The application will be used to request a duplicate approval notice; to request another U.S. Consulate be notified that a petition has been approved; or to request that a U.S. Consulate be notified that a person has been adjusted to permanent residence status so family members can apply for deniative immigrant visas.
(5) 70,000 annual respondents at .41 hours per respondent.
(6) 28,700 annual burden hours.
(7) Not applicable under 3504(h).

Special Note Regarding Impact on Fee

I–824: Based on an analysis of the projected processing costs associated with this process, and comparison with the fees for other adjudicative processes, the Services proposes to institute a fee of $30 for filing an I–824. As the Service gains experience in processing this new application, the fee will be adjusted based on actual costs.

I–129: This proposed form merges the processes for filing for a wide variety of nonimmigrant classifications based on employment, as well as what have been separate processes for change of status and extension of stay. This merger should significantly streamline preparation for those filing for these benefits, and reduce the associated information burden.

The merger of these processes means the employer will now apply for any required extension of stay where status is based on employment. This is more appropriate since the employee's status is based on the offer of employment. The exchange allows the Service to deal directly with the employer, rather than having the employee act as an intermediary. It also clarifies the transmittal of information to the employer about extensions and change of status to provide the employer with information necessary to ensure that it is complying with relevant laws relating to the employment of foreign workers. Otherwise the process remains the same.

This consolidation of processes onto one form does affect the fee. The diverse nature of the processes that have been merged would make it very difficult to create one average fee. However, a complex fee schedule would also be unworkable. Merging the fees is complicated by the fact that the Immigration Act of 1990 requires, in cases such as those involving members of entertainment groups, additional review of the credentials of each worker included in the petition.

To meet these needs, the fees for the separate processes would be translated into a new I–129 fee which would be:

- a base petition fee of $70 + either
- $10 per worker if requesting consulate or POE notification; or
- $80 per worker if requesting a change of status; or
- $50 per worker if requesting an extension of stay.

In many instances this will significantly reduce total filing fees. In some other instances there would be a slight increase. The purpose of this translation is not to generate or lose revenue. It is merely to combine, to the extent possible, different fees for distinct different processes that are now covered by separate applications with different fees.

Public comment on these items is encouraged.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

DRAFT

OMB No. 1115–

Application to Replace Alien Registration Card

Purpose of this Form

This form is for permanent residents and conditional residents to apply for replacement alien registration cards. If you are a conditional resident and your status is expiring, use Form I–751 or I–752 to apply for the removal of conditions.

Who May File

If you are a permanent resident or conditional resident, file this application:

- To replace a lost, stolen, or destroyed card;
- To replace a card that was never received;
- To replace a card that is mutilated;
- To replace a card that was incorrect when it was issued; or
- When your name or other biographic data changes;

If you are a permanent resident, you should also file this application:

- To replace a card that is expiring;
- When you reach age 14, unless your prior card will expire before you reach age 16;
- If you have been a commuter and are now taking up actual permanent residence in the United States; or
- If your status has been automatically converted to permanent resident.
- When you have an older edition of the card and must or want to replace it with the current type of card.

General Filing Instructions

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A". If an answer is "none," write "none". If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), and indicate the number of the item to which the answer refers. You must file your application with the required Initial Evidence. Every application must be properly signed and accompanied by the correct fee. If you are under 14 years of age, your parent or guardian may sign the application in your behalf.

Translations. Any foreign language document must be accompanied by a full English translation which the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate from the foreign language into English.

Copies. If these instructions state that a copy of a document may be filed with this application, and you choose to send us the original, we may keep that original for our records.

Initial Evidence

You must file your application with:

- *Your Prior Card or Other Evidence of Identity.* You must submit your original alien registration card with your application unless it has been lost, stolen, destroyed, or you never received it. If you have been automatically converted to permanent resident status, you must attach your original temporary status document.

If these instructions do not require that you submit your original alien registration card, submit a copy if you have one. If you do not have a copy, and are at least 18 years old, you must file your application with a copy of an identity document, such as a driver's license, passport, or a copy of another document containing your name, date of birth, photograph, and signature.

- *Photos.* You must submit 2 identical natural color photographs of yourself taken within 30 days of this application. The photos must have a white background, be unmounted, printed on thin paper, and be glossy and unretouched. They should show a three-quarter frontal profile showing the right side of your face, with your right ear visible and with your head bare (unless you are wearing a headdress as required by a religious order of which you are a member). The photos should be no larger than 2X2 inches, with the distance from the top of the head to just below the chin about 1 and ¼ inches. Lightly print your A# on the back of each photo with a pencil.
- *Fingerprints.* If you are filing to register as a result of turning 14 years of age, or to replace a card that is expiring and you are between the ages of 11 and 16, you must also submit your fingerprints on Form FD–258. Fill out the form and write your Alien Registration Number in the space marked "Your No. OCA" or "Miscellaneous No. MNU". Take the chart and these instructions to a police station, sheriff's office or an office of this Service, or other reputable person or organization for fingerprinting. (You should contact the police or sheriff's office before going there since some of these offices do not take fingerprints for other government agencies.) You must sign the chart in the presence of the person taking your fingerprints and have that person sign his/her name, title, and the date in the space provided. Do not bend, fold, or crease the fingerprint chart.
- *Incorrect or change in biographic data.* If you are filing to replace a card because of a name change, you also must submit a copy of a court order reflecting the new name or a copy of the marriage certificate. If you are filing to replace a card because of a change in any other biographic data, you must submit copies of documentation conclusively establishing the new data.

Where to File

Unless otherwise instructed, file this application in person at the local INS office having jurisdiction over where you live. When you file in person you will have to complete the signature and fingerprint blocks of a Form I–89, Data Collection Form at an INS office when you file this application. If you are instructed to mail this application in, you will be instructed when to appear to complete the I–89.

If you are outside the United States and have lost your card, contact the nearest American Consulate, INS office or Port of Entry.

Fee

The fee for this application is $70.00. The fee must be submitted in the exact amount. It cannot be refunded. Do Not Mail Cash.

All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

- If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Evidence of Registration

A pending application for a replacement alien registration receipt card is temporary evidence of registration.

Processing Information

Rejection. Any application that is not signed or is not accompanied by the correct fee will be rejected with a notice that the application is deficient.

You may correct the deficiency and resubmit the application. However, an application is not considered properly filed until it is accepted by the Service.

Initial processing. Once the application has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, you will not establish a basis for eligibility, and we may deny your application.

Requests for more information or interview. We may request more information or evidence or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision. You will be notified in writing of the decision on your application. If your application is approved, and you have completed the required Form I–89, Data Collection Card, your card will be manufactured and sent to you.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1302 and 1304. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is computed as follows: (1) 10 minutes to learn about the law and form; (2) 10 minutes to complete the form; and (3) 35 minutes to assemble and file the application, including the required in person filing; for a total estimated average of 55 minutes per application. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115–XXXX, Washington, D.C. 20503.

BILLING CODE 4410–10–M

DRAFT

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-XXXX

Application to Replace Alien Registration Card

START HERE - Please Type or Print

Part 1. Information about you.

Family Name	Given Name	Middle Initial

U.S. Mailing Address - C/O

Street Number and Name	Apt. #

City

State	ZIP Code

Date of Birth (Month/Day/Year)	Country of Birth

Social Security #	A #

Part 2. Application Type.

1. **My status is:** (check one)
   - a. ☐ Permanent Resident
   - b. ☐ Conditional Resident

2. **Reason for application:** (check one)

I am a permanent resident or conditional resident and:

- a. ☐ my card was lost, stolen, or destroyed.
- b. ☐ I never received a card
- c. ☐ my card is mutilated. I have attached the mutilated card.
- d. ☐ my card was incorrect when issued. I have attached the incorrect card and evidence of the correct information.
- e. ☐ my name or other Biographic information has changed since the card was issued. I have attached my present card and evidence of the new information.

I am a permanent resident and :

- f. ☐ my present card is expiring.
- g. ☐ I have reached my 14th birthday I have attached my present card and a Finger print Card (Form FD 258)
- h. ☐ I was a commuter and am now taking up residence in the U.S I have attached my present card and evidence of my residence in the U.S.
- i. ☐ my status has been automatically converted to permanent resident. I have attached my Temporary Status Document.
- j ☐ I have an old edition of the card. My present card is attached.

If you checked "a" or "b", attach evidence of your identity.

Part 3. Processing Information.

Mother's First Name	Father's First Name
City of Residence when applying for Immigrant Visa or Adjustment of Status	Consulate where Immigrant Visa was issued or INS office where status was Adjusted
City/Town/Village of Birth	Date of Admission as an immigrant or Adjustment of Status

Form I 90 (Rev 07/03/91) DRAFT 3

Continued on back.

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
☐ Applicant Interviewed	

Status as _____ verified by _____
Class Initials

FD 258 forwarded on _____

I-89 Forwarded on _____

Remarks

Action Block

To Be Completed by *Attorney or Representative*, if any

☐ Fill in box if G-28 is attached to represent the applicant

VOLAG#

ATTY State License #

Part 3. Processing Information (con't):

If you entered the U.S. with an Immigrant Visa, also complete the following:

Destination in U.S. at time of Admission

Port of Entry where Admitted to U.S.

(Answer the following questions. If you answer "yes" to any questions, explain in detail on separate paper.)

Are you in deportation or exclusion proceedings? ☐ No ☐ Yes

Since you were granted permanent residence, have you ever filed Form I-407, Abandonment by Alien of Status as Lawful Permanent Resident, or otherwise been judged to have abandoned your status? ☐ No ☐ Yes

Part 4. Signature. *(Read the information on penalties in the instructions before completing this section. You must file this application while in the United States.)*

I certify under penalty of perjury under the laws of the United States of America that this application, and the evidence submitted with it, is all true and correct. I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Signature ***Date*** ***Daytime Phone Number***

Please Note: *If you do not completely fill out this form, or fail to submit required documents listed in the instructions, you cannot be found eligible for the requested document and this application may to be denied.*

Part 5. Signature of person preparing form if other than above. *(Sign below)*

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature **Print Your Name** **Date** ***Daytime Phone Number***

Firm Name and Address

DRAFT

Form I-90 (Rev. 07-03-91) Draft 3

BILLING CODE 4410-10-C

DRAFT

OMB No. 1115–XXXX

Application for Replacement/Initial Nonimmigrant

Arrival—Departure Document

Purpose Of This form

This form is for a nonimmigrant to apply for a new or replacement Form I–94 or Form I–95 Nonimmigrant Arrival-Departure Document.

Who May File

If you are a nonimmigrant in the U.S., file this application:

- To replace your lost or stolen Form I–94 or Form I–95;
- To replace your mutilated Form I–94 or Form I–95; or
- If you were not issued a Form I–94 when you entered as a nonimmigrant, and are filing this application with an application for extension of stay or change of status.

General Filing Instructions

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A". If an answer is "none," write "none". If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), if any, and indicate the number of the item to which the answer refers. Your must file your application with the required Initial Evidence. Every application must be properly signed and filed with the correct fee. If you are under 14 years of age, your parent or guardian may sign the application.

Initial Evidence

Lost or Stolen Form. If you are applying to replace a lost or stolen Form I–94 or Form I–95, submit a copy of the original form I–94 or submit a copy of the biographic page from your passport and a copy of the page indicating admission as claimed, or other evidence of your admission. If you are unable to submit this evidence, submit a full explanation of why you cannot provide any of the above evidence along with a copy of evidence of your identity and copies of any evidence in your possession to substantiate your claim.

Mutilated Form. If you are applying to replace a mutilated Form I–94 or Form I–95, attach the original form.

First Form I–94. If you were not issued a Form I–94 at admission, have not since been issued a Form I–94 and now require an Form I–94 for another application you are filing, submit a copy of any evidence in your possession to substantiate your claimed admission.

Translations. Any foreign language document must be accompanied by a full English translation which the translator has certified a complete and correct, and by the translator's certification that he or she is competent to translate from the foreign language into English.

Copies. If these instructions state that a copy of a document may be filed with this application, and you choose to send us the original, we may keep that original for our records.

Where To File

If you are filing to replace a Form I–95, file this application at the local INS office having jurisdiction over where your are temporarily located.

If you were not issued a Form I–94, at admission, or are filing this application with an application for extension or change of states, file this application where you are filing the accompanying extension of stay or change of status application.

In all other instances, file your application as follows:

If you are in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, the Virgin Islands, or West Virginia, mail this application to: USINS Eastern Service Center, 75 Lower Welden Street, St. Albans, VT 05479–0001.

If you are in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, or Texas, mail this application to: USINS Southern Service Center, P.O. Box 152122, Department A, Irving, TX 75015–2122.

If you are in Arizona, California, Guam, Hawaii, or Nevada, mail this application to: USINS Western Service Center, P.O. Box 30040, Laguna Niguel, CA 92607–0040.

If you are elsewhere in the U.S., mail this application to: USINS Northern Service Center, 100 Centennial Mall North, Room B–26, Lincoln, NE 68508.

Fee

The fee for this application is $50.00. The fee must be submitted in the exact amount. It cannot be refunded. DO NOT MAIL CASH.

All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

- If you are in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you are in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. an uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Processing Information

Rejection. Any application that is not signed or is not accompanied by the proper fee will be rejected with a notice that the application is deficient. You may correct the deficiency and resubmit the application. However, an application is not considered properly filed until it is accepted by the Service.

Initial processing. Once the application has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your application.

Decision. Your will be notified in writing of the decision on your application. If the application is approved, a new Form I–94, or Form I–95 will be sent to you.

Penalties

If you knowingly and willfully falsify or conceal a material fact of submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for, Our legal right to ask for this information is in 8 U.S.C. 1304. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to

provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 5 minutes to learn about the law and form; (2) 5 minutes to complete the form; and (3) 15 minutes per application. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115–XXXX, Washington, D.C. 20503

BILLING CODE 4410-10-M

DRAFT

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-XXXX
Application for Replacement/Initial
Nonimmigrant Arrival - Departure Document

START HERE - Please Type or Print

FOR INS USE ONLY

Returned	Receipt
Date	
Date	
Resubmitted	
Date	
Date	
Reloc Sent	
Date	
Date	
Reloc Rec'd	
Date	
Date	
☐ Applicant Interviewed	

New I-94 Number

Action Block

Part 1. Information about you.

Family Name	Given Name	Middle Initial

Address - In care of

Street Number and Name	Apt. #

City	State

Date of Birth (Month/Day/Year)	Country of Birth
Social Security #	A #
Date of Last Admission into U.S (Month/Day/Year)	I 94 #
Current Nonimmigrant Status	Expires on (Month/Day/Year)

Part 2. Application type. (check one)

a. ☐ I am applying to replace my lost or stolen Form I 94.

b. ☐ I am applying to replace my lost or stolen Form I-95.

c. ☐ I have attached my original Form I-94. I am applying to replace it because it is mutilated.

d. ☐ I have attached my original Form I-95 I am applying to replace it because it is mutilated.

e. ☐ I was not issued a Form I-94 when I entered as a nonimmigrant, and am filing this application with an application for an extension of stay/change of status.

Part 3. Processing Information.

Are you filing this application with any other petition or application?

☐ No ☐ Yes - Form #_____

Are you now in exclusion or deportation proceedings?

☐ No ☐ Yes (Attach an explanation)

If you are unable to provide your original or a copy of your I-94, give the following information about your last entry to the U.S.

Class of Admission	Place of Admission

To Be Completed by *Attorney or Representative*, if any

☐ Fill in box if G 28 is attached to represent the applicant

VOLAG#

ATTY State License #

Part 4. Signature. *Read the information on penalties in the instructions before completing this section. You must file this application while in the United States.*

I certify under penalty of perjury under the laws of the United States of America that this application, and the evidence submitted with it, is all true and correct. I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Signature Date

Part 5. Signature of person preparing form if other than above. (sign below)

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature Print Your Name Date

Firm Name and Address

Form I-102 (8/21/91) DRAFT 8

BILLING CODE 4410-10-C

Purpose Of This Form

This form is for an employer to petition for an alien to come to the U.S. temporarily to perform services or labor, or to receive training, as an H–1A, H–1B, H–2A, H–2B, H–3, L–1A, L–1B, O–1, O–2, P–1, P–2, P–3 or Q. It is also used to petition for an extension of stay or change of status for such an alien. It is also used to file a blanket L petition.

This form is also for an employer to petition for an extension of stay or change of status for an alien as an E–1, E–2, R–1 or TC. A petition is not required to apply for an E–1, E–2, or R–1 nonimmigrant visa or admission as a TC nonimmigrant. A petition is only required to apply for a change to such status or an extension of stay in such status.

The form consists of a basic petition, and different supplements that apply to each specific classification.

Who May File

General. A U.S. employer may file to classify an alien in any nonimmigrant classification listed below. A foreign employer may file for certain classifications as indicated in the specific instructions.

Agents. A U.S. individual or company in business as an agent may file for types of workers who are traditionally self-employed or who traditionally use an agent to arrange short-term employment with numerous employers. A petition filed by an agent must include a complete itinerary of services or engagements, including dates, names and addresses of the actual employers, and the locations where the services will be performed. The agent must guarantee the wage offered and the other terms and conditions of employment by contract with the alien(s).

Including more than one alien in a petition. Aliens who will apply for their visas at the same consulate or, if they do not need visas, will enter at the same port of entry may be included in one petition in the following classifications:

- H2–A if they are included on the same labor certification and will perform the same duties;
- H–2B if they are included on the same labor certification and will perform the same duties;
- H–3 if they will receive the same training;
- O–2 if they will assist the same O–1 for the same period of time and in the same location(s);
- P–1 if they are members of the same group or team (accompanying aliens must be filed for on a separate petition);
- P–2 if they are members of the same group (accompanying aliens must be filed for on a separate petition);
- P–3 if they are members of the same group (accompanying aliens must be filed for on a separate petition);
- P–1, P–2, or P–3 accompanying aliens if they will accompany the same P–1, P–2, or P–3 alien or group for the same period of time and in the same location(s);
- Q if they will perform the same service or labor or receive the same training.
- *Multiple locations.* A petition for alien(s) to perform services or labor or receive training in more than one location must include an itinerary with the dates and locations where the services or training will take place.
- Unnamed aliens. All aliens included in a petition must be named except:
- An H–2A petition for more than one worker may include unnamed aliens if they are unnamed on the labor certification;
- An H–2B petition for more than one worker may include unnamed aliens in emergent situations where you establish in the petition that you cannot yet provide names due to circumstances which you could not anticipate or control

Where some or all of the aliens are not named, specify the total number of unnamed aliens and total number of aliens in the petition. Where the aliens must be named, petitions naming subsequent beneficiaries may be filed later with a copy of the same labor certification. Each petition must reference all previously filed petitions using that certification.

General Filing Instructions

Complete the basic form and relating supplement. Indicate the specific classification you are requesting. Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A". If the answer is "none," write "none". If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), if any, and indicate the number of the item to which the answer refers. You must file your petition with the required Initial Evidence. The petition must be properly signed and filed with the proper fee. Submit the petition in duplicate if you check block "a" or "b" in question 4 of Part 2 on the form.

Classifications; Initial Evidence

These instructions are divided into two parts. The first looks at classifications which require a petition for an initial visa or entry and for any extension or change of status. The second looks at those classifications which only require a petition for a change of status or extension of stay.

Petition always required: The following classifications always require a petition. A petition for new or concurrent employment or for extension where there is a change in previously approved employment must be filed with the initial evidence listed below, and with the initial evidence required by the separate instructions for a change of status or extension of stay. However, a petition for an extension based on unchanged, previously approved employment need only be filed with the initial evidence required in the separate extension of stay instructions.

H–1A. An H1–A is an alien coming to perform services as a registered professional nurse. The petition must be filed by a U.S. employer that provides health care services (including nursing contractors), and must be filed with:

- Evidence the alien has a full and unrestricted license to practice professional nursing in the country where he or she obtained nursing education, or that the nursing education was received in the U.S. or Canada;
- Evidence the alien has either:
- Passed the test given by the Commission on Graduate of Foreign Nursing Schools (CGFNS),
- A permanent license to practice professional nursing in the state of intended employment, or
- A permanent license to practice professional nursing in the state or territory of the U.S. and has temporary authorization to practice professional nursing in the state of intended employment;
- Evidence the alien is fully qualified and eligible under the laws of the state or territory of intended employment to work as a professional nurse immediately after entry;
- A statement indicating you intend to employ the alien solely as a registered professional nurse; and
- A copy of the Department of Labor's current notice of acceptance of the filing of your attestation on Form ETA 9029.

H–1B alien coming temporarily to perform services in a specialty occupation. A specialty occupation is one which requires the theoretical and practical application of a body of highly specialized knowledge to fully perform the occupation and requires completion of a specific course of education culminating in a baccalaureate degree in a specific occupational specialty. The petition must be filed by the U.S. employer, and must be filed with:

• An approved labor condition application from the Department of Labor;

• Evidence the proposed employment qualifies as within a specialty occupation;

• Evidence the alien has the required degree by submitting either:

• A copy of the person's U.S. baccalaureate or higher degree which is required by the specialty occupation,

• A copy of a foreign degree and evidence it is equivalent to the U.S. degree, or

• Evidence establishing that the alien's combined education and experience is equivalent to the required U.S. degree;

• A copy of any required license or other official permission to practice the occupation in the state of intended employment;

• A copy of any written contract between you and the alien or a summary of the terms of the oral agreement under which the alien will be employed;

• A statement that the terms of the approved labor condition application will be fully complied with; and

• A signed statement that the employer will pay the reasonable cost of return transportation if the alien is dismissed before the end of the period of authorized employment.

H1–B alien coming to perform services of an exceptional nature relating to a cooperative research and development project administered by the Department of Defense. A U.S. employer may file the petition. It must be filed with:

• A description of the proposed employment and evidence the services and project meet the above conditions; and

• A statement listing the names of all aliens who are not permanent residents who are or have been employed on the project within the past year, along with their dates of employment.

H–2A. An H–2A is an alien coming temporarily to engage in temporary or seasonal agricultural employment. The petition must be filed by a U.S. employer or an association of U.S. agricultural producers named as a joint employer on the certification. It must be filed with:

• A single valid temporary agricultural labor certification, or, if U.S. workers do not appear at the worksite, a copy of the Department of Labor's denial of a certification and appeal, and evidence that qualified domestic labor is unavailable; and

• Copies of evidence that each named alien met the minimum job requirements stated in the certification when it was applied for.

H–2B. An H–2B is an alien coming temporarily to engage in non-agricultural employment which is seasonal, intermittent, to meet a peak load need, or for a one-time occurrence. The petition must be filed by a U.S. employer with:

• Either:

• A temporary labor certification from the Department of Labor, or the Governor of Guam if the proposed employment is solely in Guam, indicating that qualified U.S. workers are not available and that employment of the alien will not adversely affect the wages and working conditions of similar employed U.S. workers, or

• A notice from such authority that such certification cannot be made, along with evidence of the availability of U.S. workers and of the prevailing wage rate for the occupation in the U.S., and evidence overcoming each reason why the certification was not granted;

• Copies of evidence, such as employment letters and training certificates, that each named alien met the minimum job requirements stated in the certification when it was applied for;

• A statement that the terms of the approved labor condition application will be fully complied with; and

• A signed statement that the employer will pay the reasonable cost of return transportation if the alien is dismissed before the end of the period of authorized employment.

H–3. An H–3 is an alien coming temporarily to participate in a special education training program in the education of children with physical, mental, or emotional disabilities. Custodial care of children must be incidental to the training program. The petition must be filed by the U.S. employer with:

• A description of the training, staff and facilities, evidence the program meets the above conditions, and details of the alien's participation in the program; and

• Evidence the alien is nearing completion of a baccalaureate degree in special education, or already holds such a degree, or has extensive prior training and experience in teaching children with physical, mental, or emotional disabilities.

H–3. An H–3 is also an alien coming temporarily to receive other training from an employer in any field other than graduate education or training. The petition must be filed by the U.S. employer with:

• A detailed description of the structured training program, including the number of classroom hours per week and the number of hours of on-the-job training per week;

• A summary of the prior training and experience of each alien in the petition; and

• An explanation of why the training is required, whether similar training is available in the alien's country, how the training will benefit the alien in pursuing a career abroad, and why you will incur the cost of providing the training without significant productive labor.

L–1A. An L–1A is an alien coming temporarily to perform services in a managerial or executive capacity, for the same corporation or firm, or for the branch, subsidiary or affiliate of the employer which employed him or her abroad for one continuous year within the three-year period immediately preceding the filing of the petition, in an executive, managerial or specialized knowledge capacity.

L–1B . An L–1B is an alien coming temporarily to perform services which entail specialized knowledge, for the same corporation or firm, or for the branch, subsidiary or affiliate of the employer which employed him or her abroad for one continuous year within the three year period immediately preceding the filing of the petition, in an executive, managerial or specialized knowledge capacity. Specialized knowledge is special knowledge of the employer's product or its application in international markets or an advanced level of the knowledge of the employer's processes and procedures.

L Petition Requirements. A U.S. employer or foreign employer may file the petition, but a foreign employer must have a legal business entity in the U.S. It must be filed with:

• Evidence of the qualifying relationship between the U.S. and foreign employer based on ownership and control, such as an annual report, articles of incorporation, or financial statements;

• A letter from the alien's foreign qualifying employer detailing his/her dates of employment, job duties, qualifications, and salary for the 3 previous years, demonstrating that the alien worked for the employer for at least one continuous year in the three-year period preceding the filing of the petition in an executive, managerial or specialized knowledge capacity; and

• A description of the proposed job duties and qualifications and evidence the proposed employment is in an executive, managerial or specialized knowledge capacity.

If the alien is coming to the U.S. to open a new office, also file the petition with copies of evidence the business entity in the U.S.:

• Already has sufficient premises to house the new office;

• Has or upon establishment will have the qualifying relationship to the foreign employer;

• Has the financial ability to remunerate the alien and to begin doing business in the U.S., including evidence about the size of the U.S. investment, the proposed number of employees and types of positions they will hold, and evidence of the size, staffing levels and financial size and condition of the foreign employer, and, if the alien is coming as an L–1 manager or executive to open a new office, such evidence must establish that the intended U.S. operation will support the executive or managerial position within one year.

Blanket L petition. An L blanket petition simplifies the process of later filing for individual L–1A workers and L–1B workers who are specialized knowledge professionals, which are persons who possess specialized knowledge employed in positions which require the theoretical and practical application of a body of highly specialized knowledge to fully perform the occupation and require completion of a specific course of education culminating in a baccalaureate degree in a specific occupational specialty.

A blanket L petition must be filed by a U.S. employer who will be the single representative between INS and the qualifying organizations. Write in the classification requested block. Do not name an individual employee. File the petition with copies of evidence that:

• You and your branches, subsidiaries and affiliates are engaged in commercial trade or services;

• You have an office in the U.S. that has been doing business for one year or more;

• You have 3 or more domestic and foreign branches, subsidiaries, or affiliates;

• You and your qualifying organizations have obtained approved petitions for at least 10 "L" managers, executives or specialized knowledge professionals during the previous 12 months, have U.S. subsidiaries or affiliate with combined annual sales of at least 25 million dollars, or have a U.S. work force of at least 1,000 employees.

After approval of a blanket petition, you may file for individual employees to enter as an L–1A alien or L–1B specialized knowledge professional under the blanket petition. If the alien is outside the U.S., file Form I–129S. If the alien is already in the U.S. file this form (I–129) to request a change of status based on this blanket petition. The petition must be filed with:

• A copy of the approval notice for the blanket petition;

• A letter from the alien's foreign qualifying employer detailing his/her dates of employment, job duties, qualifications, and salary for the 3 previous years; and

• If the alien is a specialized knowledge professional, a copy of a U.S. degree, a foreign degree equivalent to a U.S. degree, or evidence establishing the combination of the beneficiary's education and experience is the equivalent of a U.S. degree.

O–1 alien coming temporarily who has extraordinary ability in the sciences, arts, education, business, or athletics. A U.S. employer or foreign employer may file the petition. It must be filed with:

• A written consultation with a peer group in the alien's area of ability (see General Evidence);

• A copy of any written contract between you and the alien or a summary of the terms of the oral agreement under which the alien will be employed.

• Copies of evidence the services to be performed either:

• Involve an event, production or activity which has a distinguished reputation.

• Are as a lead or starring participant in a distinguished activity for an organization or establishment that has a distinguished reputation or record of employing extraordinary persons,

• Primarily involve a specific scientific or educational project, conference, convention, lecture, or exhibit sponsored by scientific or educational organizations or establishments, or

• Consist of a specific business project that requires an extraordinary executive, manager, or highly technical person due to the complexity of the project;

• Evidence the alien has received a major, internationally-recognized award, such as an Academy Award or Nobel Prize, or copies of evidence of at least three of the following:

• Receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor,

• Membership in associations in the field which require outstanding achievements as judged by recognized international experts,

• Published material in professional or major trade publications or newspapers about the alien and his work in the field,

• Participation on a panel or individually as a judge of the work of others in the field or an allied field,

• Original scientific or scholarly research contributions of major significance in the field,

• Authorship of scholarly articles in the field in professional journals or other major media.

• Display of the alien's work at artistic exhibitions in more than one country,

• Evidence the alien commands a high salary or other high remuneration for services, or

• Evidence of commercial successes in the performing arts, as shown by box office receipts or record sales.

O–1 alien who has a demonstrated record of extraordinary achievement in motion picture or television productions. A U.S. employer or foreign employer may file the petition. It must be filed with:

• Written consultations with the appropriate union representing the alien's occupational peers and a management organization in the area of the alien's responsibility (see General Evidence);

• A copy of any written contract between you and the alien or a summary of the terms of the oral agreement under which the alien will be employed.

• Copies of evidence the alien has been nominated for or received significant national or international awards or prizes in the particular field such as an Academy Award or Grammy or

• Copies of evidence of at least three of the following:

• The alien has performed and will perform services as a lead or starring participant in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements,

• The alien has been the recipient of significant national or international awards or prizes in the field,

• The alien has achieved national or international recognition for achievements evidenced by critical reviews or other published materials by or about the individual in major newspaper, trade journals or magazines,

• The alien has performed and will perform as a lead or starring participant for organizations and establishments that have a distinguished reputation,

• The alien has a record of major commercial or critically acclaimed successes,

• The alien has received significant recognition for achievements from organizations, critics, government agencies or other recognized experts in the field,

• The alien commands a high salary or other substantial remuneration for services.

O–2. An O–2 is an alien coming temporarily, solely as an essential and integral part of the artistic or athletic performance by an O–1 because he or she performs support services which cannot be readily performed by a U.S. worker and which are essential to the successful performance of the O–1. The alien must also have significant prior experience with the O–1 alien. The petition must be filed in conjunction with the employment of an O–1 alien. It must be filed with:

• Written consultation with a labor organization in the skill in which the alien will be involved (see General Evidence);

• A statement describing the alien's prior and current essentiality, critical skills and experience with the O–1;

• Statements or affidavits from persons with first hand knowledge that the alien has had substantial experience performing the critical skills and essential support services for the O–1 alien;

• A copy of any written contract between you and the alien or a summary of the terms of the oral agreement under which the alien will be employed; and

• In the case of a specific motion picture or television production, written statements from production executives attesting to the fact that significant principal photography has taken place outside the U.S. and will take place inside the U.S., and to the fact that the continuing participation of the alien is essential to the successful completion of the production.

P–1. A P–1 is an alien coming temporarily to perform at a specific athletic competition as an athlete, individually or as part of a group or team, at an internationally recognized level of performance. (See the separate instructions for accompanying personnel.) A U.S. employer or foreign employer may file the petition. It must be filed with:

• Written consultation with an appropriate labor organization (see General Evidence);

• A copy of the contract with a major U.S. sports league or team or contract in an individual sport commensurate with international recognition in that sport.

• Copies of evidence of at least 2 of the following:

• Participation to a substantial extent in a prior season with a major U.S. sports league,

• Participation in international competition with a national team,

• Participation to a substantial extent in a prior season for a U.S. college or university in intercollegiate competition,

• A written statement from an official of a major U.S. sports league or an official of the governing body of the sport detailing how the alien or team is internationally recognized,

• A written statement from a member of the sports media or a recognized expert in the sport detailing how the alien or team is internationally recognized,

• The individual or team is ranked if the sport has international rankings, or

• The alien or team has received a significant honor or award in the sport.

P–1. A P–1 is also an alien coming temporarily to perform at an entertainment performance as a member of an entertainment group that is recognized as outstanding in the discipline. The group must have been established for a minimum of 1 year and each member must have been performing entertainment services with the group for a minimum of 1 year. (See the separate instructions for accompanying personnel.) A U.S. employer of foreign employer may file the petition. It must be filed with:

• Written consultation with an appropriate labor organization (see General Evidence);

• Copies of evidence that the group, under the name in the petition, has been established and performing regularly for at least 1 year.

• A statement from the group's official who has hiring authority, listing each member of the group and the exact dates which that member has been employed on a regular basis by the group.

• Copies of evidence the group is internationally recognized in the discipline by submitting at least 3 different types of documentation showing that the group:

• Has performed and will perform as a starring or leading entertainment group in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, or contracts,

• Has achieved international recognition and acclaim for outstanding achievement in their field as evidenced by reviews in major newspapers, trade journals, magazines, or other published material,

• Has received significant international awards or prizes for outstanding achievement in their field,

• Has performed and will perform services as a leading or starring group for organizations and establishments that have a distinguished reputation,

• Has a record of major commercial or critically acclaimed successes, as evidenced by such indicators as ratings, or standing in the field, box office receipts, record, cassette, or video sales, and other achievements in the field as reported in trade journals, major newspapers, or other publications,

• Has received significant recognition for achievements from organizations, critics, government agencies or other recognized experts in the field,

• Commands a high salary or other substantial remuneration for services, evidenced by contracts or other reliable evidence.

P–2. A P–2 is an alien coming temporarily to perform as an artist or entertainer, individually or as part of a group, under a reciprocal exchange program between an organization in the U.S. and an organization in another country. (See the separate instructions for accompanying personnel.) The petition must be filed by the sponsoring organization or employer in the U.S. It must be filed with:

• Written consultation with an appropriate labor organization (see General Evidence);

• A copy of the formal reciprocal exchange agreement between the U.S. organization(s) sponsoring the aliens, and the organization(s) in a foreign country which will receive the U.S. artist or entertainers;

• A statement from the sponsoring organization describing the reciprocal exchange, including the name of the receiving organization abroad, names and occupations of U.S. artists or entertainers being sent abroad, length of their stay, activities in which they will be engaged and the terms and conditions of their employment; and

• Copies of evidence the aliens and the U.S. artists or entertainers are experienced artists with comparable skills and that the terms and conditions of employment are similar.

P–3. A P–3 is an alien coming temporarily to perform as an artist or entertainer, individually or as part of a group, under a program which is culturally unique. (See the separate instructions for accompanying personnel.) The petition must be filed by the sponsoring organization or employer in the U.S. It must be filed with:

• A description of the proposed activities and evidence they constitute a unique or traditional art form;

• Written consultation with an appropriate labor organization (see General Evidence);

• Affidavits, testimonials or letters from recognized experts attesting to the authenticity and excellence of the skills

of the alien or group in presenting the unique or traditional art form and explaining the level of recognition accorded the alien or group in the native country and the U.S.;

• Copies of evidence most of the performances or presentations will be culturally unique events sponsored by educational, cultural, or governmental agencies;

• Either:

• An affidavit or testimonial from the ministry of Culture, USIA Cultural Affairs Officer, the academy for the artistic discipline, a leading scholar, a cultural institution, or a major university in the alien's own country or from a third country,

• A letter from a U.S. expert who has knowledge in the particular field, such as scholar, arts, administrator, critic, or representative of a cultural organization or government agency, or

• A letter or certification from a U.S. government cultural or arts agency such as the Smithsonian Institution, the National Endowment for the Arts, the National Endowment for the Humanities, or the Library of Congress.

P–1, P–2 and P–3 Accompanying Support Personnel. Accompanying support personnel are highly skilled aliens coming temporarily as an essential and integral part of the competition or performance of a P–1, P–2, or P–3 alien because they perform support services which cannot be readily performed by a U.S. worker and which are essential to the successful performance or services by the P–1, P–2 or P–3. The aliens must each also have significant prior work experience with the P–1, P–2, or P–3 alien. Write P–1S, P–2S or P–3S in the classification requested block on the petition. The petition must be filed in conjunction with the employment of a P–1, P–2 or P–3 alien. It must be filed with:

• Written consultation with a labor organization in the skill in which the alien will be involved (see General Evidence);

• A statement describing the alien's prior and current essentiality, critical skills and experience with the P–1, P–2 or P–3;

• Statements or affidavits from persons with first hand knowledge that the alien has had substantial experience performing the critical skills and essential support services for the P–1, P–2, or P–3; and

• A copy of any written contract between you and the alien or a summary of the terms of the oral agreement under which the alien will be employed.

Q. A Q is an alien coming temporarily to participate in an international cultural exchange program approved by the Attorney General for the sharing of the attitude, customs, history, heritage, philosophy, and/or traditions of the alien's country of nationality. The culture sharing must take place in a school, museum, business, or other establishment where the public is exposed to aspects of a foreign culture as part of a structured program. The work component of the program may not be independent of the cultural component, but must serve as the vehicle to achieve the objectives of the cultural component. A U.S. employer or foreign employer may file the petition; however, a foreign employer's petition must be signed by a U.S. citizen or permanent resident employed by the qualified employer on a permanent basis in an executive, managerial, or supervisory capacity for the prior year. File the petition with evidence you:

• Maintain an established international cultural exchange program;

• Have designated a qualified employee to administer the program and serve as liaison with INS;

• Have been doing business in the U.S. for the past two years;

• Will offer the alien wages and working conditions comparable to those accorded local domestic workers similarly employed;

• Employ at least 5 full)time U.S. citizens or permanent resident workers;

• Have the financial ability to remunerate the participant(s), as shown by your most recent annual report, business income tax return, or other form of certified accountant's report;

• Catalogs, brochures or other types of material which illustrate that:

• The cultural component is designed to give an overview of the attitude, customs, history, heritage, philosophy, tradition, and/or other cultural attributes of the participant's home country;

• The cultural component is an essential and integral part of the employment or training;

• The employment or training takes place in a public setting where the sharing of the culture of their country of nationality can be achieved through direct interaction with the American public; and

• The American public will derive an obvious cultural benefit from the program.

►Petition only required for alien in the U.S. to change status or extend stay: The following classifications do not require a petition for new employment if the alien is outside the U.S. The alien should instead contact a U.S. Consulate for information about a visa or admission. Use this form to petition for a change of status, concurrent employment, or an extension of stay.

A petition for change of status to one of the classifications described in this part must be filed with the initial evidence listed below and with the initial evidence required by the separate instructions for all petitions involving change of status. A petition for an extension of stay must be filed with the initial evidence listed below and with the initial evidence required by the separate instructions for all petitions for extension. However, a petition for an extension based on unchanged, previously approved employment need only be filed with the initial evidence required by the separate extension of stay instructions.

E–1. An E–1 national of a country with whom the U.S. has a treaty of friendship, commerce, and navigation who is coming to the U.S. to engage in substantial trade between the U.S. and the alien's country of nationality. Substantial trade means that your trading activities with the U.S. comprise more than 50% of your total volume of business transactions in the U.S. and that there is a continued course of international trade.

E–2. An E–2 is a national of a country with whom the U.S. has a treaty of friendship, commerce, and navigation who is coming to the U.S. to direct and develop the operations of an enterprise in which he/she has invested or is in the process of investing substantially. A substantial investment is one in which personal funds or assets are put at risk in a real operating enterprise which generates services or goods. The lower the value or starting cost of the business, the higher the percentage which must be invested, within the following general rules:

• If the value/starting cost of the business is less than $500,000, you must invest 75% to 100%

• If the value/starting cost of the business is $500,000 to $2,000,000, you must invest 50% to 75%

• If the value/starting cost of the business is more than $2,000,000, you must invest 20% to 50%.

You must show that you are able to direct and develop the enterprise by having control over the business. You must also show that the investment is not your main source of income or that the proceeds from the investment are substantially greater than a subsistence income.

An *E–1 or E–2* may also be an employee of a qualified treaty alien or treaty company. If so, the alien must be an executive or manager, an individual with specialized qualifications that are

essential to the efficient operation of the employer's business enterprise, a highly trained technician, or start-up personnel (E–2 only).

E Petition requirements. A principal treaty trader or investor or the qualified employer may file the petition. It must be filed with copies of evidence of:

- Ownership and nationality, including lists of investors with current status and nationality, stock certificates, certificates of ownership issued by the commercial section of a foreign embassy, and reports from a certified professional accountant;
- Substantial trade if filing for an E–1, including copies of three or more of the following: bills of lading, customs receipts, letters of credit, insurance papers documenting commodities imported, purchase orders, carrier inventories, trade brochures, sales contracts.
- Substantial investment if filing for an E–2, including copies of partnership agreements (with a statement on proportionate ownership), articles of incorporation, payments for the rental of business premises or office equipment, business licenses, stock certificates, office inventories (goods and equipment purchased for the business), insurance appraisals, advertising invoices, annual reports, net worth statements from certified professional accountants, business bank accounts containing funds for routine operations, funds held in escrow;
- If filing for an employee, evidence he/she is a manager or executive, or evidence of special knowledge, skills, training, or education, such as certificates, diplomas or transcripts, letters from employers describing job titles, duties, and the level of education and knowledge required, operators' manuals, and for non-executive/managerial employees, evidence that qualified U.S. workers are not available.

R–1. An R–1 is an alien who, for at least 2 years, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the U.S., coming temporarily to work solely:

- As a minister of that denomination,
- In a professional capacity in a religious vocation or occupation for that organization, or
- In a religious vocation or occupation for the organization or its nonprofit affiliate.

The petition must be filed by a U.S. employer with:

- A letter from the authorizing official of the religious organization establishing that the proposed services and alien qualify above;
- A letter or letters from the authorizing officials of the religious denomination or organization attesting to the alien's membership in the religious denomination explaining, in detail, the person's religious work and all employment during the past 2 years and the proposed employment; and
- A copy of the tax-exempt certificate showing the religious organization, and any affiliate which will employ the person, is a bona fide nonprofit, religious organization in the U.S. and is exempt from taxation in accordance with section 501(c)(3) of the Internal Revenue Code of 1986,

TC. A TC is a Canadian citizen coming to the U.S. temporarily under the provisions of the United States-Canada Free-Trade Agreement. A U.S. employer or a foreign employer may file the petition. File the petition with:

- A letter stating the activity to be engaged in, the purpose of entry, the anticipated length of stay, and the arrangements for remuneration; and
- Evidence the alien meets the educational and/or licensing requirements for the profession or occupation.

Change of Status

In addition to the initial evidence for the classification you are requesting, a petition requesting a change of status for an alien in the U.S. must be filed with a copy of the Form I–94, Nonimmigrant Arrival/Departure Record, of the employee(s). [Family members should use Form I–539 to apply for a change of status.] A nonimmigrant who must have a passport to be admitted must keep that passport valid during his/her entire stay. If a required passport is not valid, file a fill explanation with your petition.

The following are not eligible to change status:

- An alien admitted under a visa waiver program;
- An alien in transit (C) or in transit without a visa (TWOV);
- A crewman (D);
- A fiance(e) or his/her dependent (K);
- A J–1 exchange visitor whose status was for the purpose of receiving graduate medical training;
- A J–1 exchange visitor subject to the foreign residence requirement who has not received a waiver of that requirement;
- An M–1 student to an H classification if training received as an M–1 helped him/her qualify for H classification.

Extension of Stay

A petition requesting an extension of stay for an employee in the U.S. must be filed with a copy of the Form I–94, Nonimmigrant Arrival/Departure Record, of the employee(s), and a letter from the petitioner explaining the reasons for the extension. [Family members should use Form I–539 to file for an extension of stay.] A nonimmigrant who must have a passport to be admitted must keep the passport valid during his/her entire stay. If a required passport is not valid, file a full explanation with your petition. Where there has been a change in the circumstances of employment, also submit the evidence required for a new petition.

Where there has been no change in the circumstances of employment, file your petition with the appropriate supplement and with your letter describing the continuing employment, and:

- If for H–1A status, submit a current copy of the Department of Labor's notice of acceptance of the petitioner's attestation.
- If for H–1B status, submit an approved labor condition application for the specialty occupation valid for the period of time requested.
- If for H–2B status, submit a labor certification valid for the dates of the extension.
- If for H–2A status, submit a labor certification valid for the dates of the extension unless it is based on a continuation of employment authorized by the approval of a previous petition filed with a certification and the extension will last no longer than the previously authorized employment and no longer than 2 weeks.

General Evidence

Written consultation. For classifications noted above, consultation with a peer, union, and/or management organization regarding the nature of the work to be done and the alien's qualifications is required before the petition may be approved. To obtain timely adjudication of a petition, you should obtain a written advisory opinion from an appropriate peer group, union, and/or management organization and submit it with the petition.

If you file a petition without the advisory opinion, you must send a copy of the petition and all supporting documents to the appropriate organization when you file the petition with INS, and indicate in the petition which organization you sent it to. Explain to the organization that they will be contacted by INS for an advisory opinion. If an accepted organization does not issue an advisory opinion within a given time period, a decision

will be made based upon the evidence of record. However, it will require a minimum of 45 days to process a petition filed without the actual advisory opinion.

Translations. Any foreign language document must be accompanied by a full English translation which the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate from the foreign language into English.

Copies. If these instructions state that a copy of a document may be filed with this petition, and you choose to send us the original, we may keep that original for our records.

When to File

File your petition as soon as possible, but no more than 4 months before the proposed employment will begin or the extension of stay is required. If you do not submit your petition at least 45 days before the employment will begin, petition processing, and subsequent visa issuance, may not be completed before the alien's services are required.

Where to File

File any TC petition at the port of entry. File a blanket L petition at the INS Service Center having jurisdiction over the petitioner's location. File a petition for services or training in more than one location at the Service Center with jurisdiction over the petitioner's location except that if the petitioner is a foreign employer, file it at the Service Center having jurisdiction over the first place the services or training will be performed.

File any other petition at the Service Center with jurisdiction over the place the alien(s) will be employed or receive training, except that if they will solely be performing services or receiving training in Guam or the Virgin Islands, the petition should be filed at the local INS office there.

Service Center Jurisdictions

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, or West Virginia: mail your petition to USINS, Eastern Service Center, 75 Lower Welden Street, St. Albans, VT 05479–0001.

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, or Texas; mail your petition to USINS, Southern Service Center, P.O. Box 152122, Dept. A, Dallas, TX 75015–2122.

Arizona, California, Hawaii, or Nevada; mail your petition to USINS, Western Service Center, P.O. Box 30040, Laguna Niguel, CA 92607–0040.

Elsewhere in the United States; mail your petition to USINS, Northern Service Center, 100 Centennial Mall North, Room B–26, Lincoln, NE 68508.

Fee

The fee for this petition is a base fee of $70.00 + either:

- $10 per worker if you are requesting consulate or POE notification for visa issuance or admission [block (a) in Part 2, Question 4]; or
- $80 per worker if requesting a change of status [block (b) in Part 2, Question 4]; or
- $50 per worker if requesting an extension of stay [block (c) in Part 2, Question 4].

The fee must be submitted in the exact amount. It cannot be refunded. Do Not Mail Cash. All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

- If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which is it drawn.

Processing Information

Rejection. Any petition that is not signed, or is not accompanied by the correct fee, will be rejected with a notice that the petition is deficient. You may correct the deficiency and resubmit the petition. However, a petition is not considered properly filed until accepted by the Service.

Initial processing. Once a petition has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your petition.

Requests for more information or interview. We may request more information or evidence, or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision. The decision on a petition involves separate determinations of whether you have established that the alien is eligible for the requested classification based on the proposed employment, and whether he or she is eligible for any requested change of status or extension of stay. You will be notified of the decision in writing.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1154, 1184 and 1258. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 30 minutes to learn about the law and form; (2) 25 minutes to complete the form; and (3) 30 minutes to assemble and file the petition; for a total estimated average of 85 minutes per petition. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street NW, Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115–XXXX, Washington, D.C. 20503.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

DRAFT

OMB #1115-XXXX
Petition for a Nonimmigrant Worker

START HERE - Please Type or Print

Part 1. Information about the employer filing this petition.

If the employer is an individual, use the top name line. Organizations should use the second line.

Family Name	Given Name	Middle Initial
Company or Organization Name		
Address - Attn:		
Street Number and Name		Apt. #
City	State or Province	
Country	ZIP/Postal Code	
IRS Tax #		

Part 2. Information about this Petition.

(See instructions to determine the fee).

1. **Requested Nonimmigrant Classification:**

2. **Basis for Classification** (check one)
   - a. ☐ New employment
   - b. ☐ Continuation of previously approved employment without change
   - c. ☐ Change in previously approved employment
   - d. ☐ New concurrent employment

3. **Prior petition.** If you checked other than "New Employment in item 2. (above) give the most recent prior petition number for the worker(s):

4. **Requested Action:** (check one)
   - a. ☐ Notify the office in Part 4 so the person(s) can obtain a visa or be admitted (NOTE: a petition is not required for an E-1, E-2, or R visa).
   - b. ☐ Change the person(s) status and extend their stay since they are all now in the U.S. in another status (see instructions for limitations). This is available only where you check "New Employment" in item 2, above.
   - c. ☐ Extend or amend the stay of the person(s) since they now hold this status.

5. **Total number of workers in petition:**

(See instructions for where more than one worker can be included.)

Part 3. Information about the person(s) you are filing for.

Complete the blocks below. Use the continuation sheet to name each person included in this petition

If an entertainment group, give their group name.

Family Name	Given Name	Middle Initial
Date of Birth *(Month/Day/Year)*	Country of Birth	
Social Security #	A #	
If in the United States, complete the following:		
Date of Arrival *(Month/Day/Year)*	I-94 #	
Current Nonimmigrant Status	Expires *(Month/Day/Year)*	

Form I-129 (Rev 08 19 91) DRAFT 6

Continued on back.

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
Interviewed ☐ Petitioner ☐ Beneficiary	

Class:
# of Workers
Priority Number
Validity Dates From
To

☐ **Classification Approved**
- ☐ Consulate/POE/PFI Notified
- At:
- ☐ Extension Granted
- ☐ COS/Extension Granted

Partial Approval (explain)

Action Block

To Be Completed by *Attorney or Representative*, if any

☐ Fill in box if G 28 is attached to represent the applicant

VOLAG#

ATTY State License #

Part 4. Processing Information.

a. If the beneficiary is outside the U.S. or a requested extension of stay or change of status cannot be granted, give the U.S. consulate or inspection facility you want notified if this petition is approved.

Type of Office (check one): ☐ Consulate ☐ Pre-flight inspection ☐ Port of Entry

Office Address (City) U.S. State or Foreign Country

Person's Foreign Address

b. Does each person in this petition have a valid passport?
☐ Not required to have passport ☐ No - explain on separate paper ☐ Yes

c. Are you filing any other petitions with this one? ☐ No ☐ Yes - How many? _____

d. Are applications for replacement/initial I-94's being filed with this petition? ☐ No ☐ Yes - How many? _____

e. Are applications by dependents being filed with this petition? ☐ No ☐ Yes - How many? _____

f. Is any person in this petition in exclusion or deportation proceedings? ☐ No ☐ Yes - explain on separate paper

g. Have you ever filed an immigrant petition for any person in this petition? ☐ No ☐ Yes - explain on separate paper

h. If you indicated you were filing a new petition in Part 2, within the part 7 years has any person in this petition:

1) ever been given the classification you are now requesting? ☐ No ☐ Yes - explain on separate paper

2) ever been denied the classification you are now requesting? ☐ No ☐ Yes - explain on separate paper

i. If you are filing for an entertainment group, has any person in this petition not been with the group for at least 1 year?
☐ No ☐ Yes - explain on separate paper

Part 5. Basic Information about the proposed employment and employer.

Attach the supplement relating to the classification you are requesting.

Job Title | Nontechnical Description of Job

Address where the person(s) will work if different from the address in Part 1.

Is this a full-time position? ☐ No - Hours per week ☐ Yes | Wages Per Week

Other Compensation (Explain) | Value (Per Week) | Dates of Intended employment From: To:

Type of Petitioner - check one: ☐ U.S. citizen or permanent resident ☐ Organization ☐ Other - explain on separate paper

Type of business: | Year established:

Current Number of Employees | Gross Annual Income | Net Annual Income

Part 6. Signature.

Read the information on penalties in the instructions before completing this section.

I certify, under penalty of perjury under the laws of the United States of America, that this petition, and the evidence submitted with it, is all true and correct. If filing this on behalf of an organization, I certify that I am empowered to do so by that organization. If this petition is to extend a prior petition, I certify that the proposed employment is under the same terms and conditions as in the prior approved petition. I authorize the release of any information from my records, or from the petitioning organization's records, which the Immigration and Naturalization Service needs to determine eligibility for the benefit being sought.

Signature | Print Name | Date

Please Note: If you do not completely fill out this form and the required supplement, or fail to submit required documents listed in the instructions, then the person(s) filed for cannot be found eligible for the requested benefit, and this petition may be denied.

Part 7. Signature of person preparing form if other than above.

I declare that I prepared this petition at the request of the above person and it is based on all information of which I have any knowledge.

Signature | Print Name | Date

Firm Name and Address

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U.S. Department of Justice
Immigration and Naturalization Service

E Classification
Supplement to Form I-129

Name of person or organization filing petition:

Name of person you are filing for:

Classification sought (check one):
☐ E-1 Treaty trader ☐ E-2 Treaty investor

Name of country signatory to treaty with U.S.

Section 1. Information about the Overseas Employer

Name

Address

Alien's Position - Title, duties and number of years employed

Principal Product, merchandise or service

Total Number of Employees

Section 2. Additional Information about the U.S. Employer.

The U.S. company is, to the company abroad (check one):
☐ Parent ☐ Branch ☐ Subsidiary ☐ Affiliate ☐ Joint Venture

Date and Place of Incorporation in the U.S.

Nationality of Ownership (Individual or Corporate)

Name	Nationality	Immigration Status	% Ownership

Assets	Net Worth	Total Annual Income	Staff in the U.S.

Staff in the U.S.	Executive/Manager	Technical Specialists	All others
Nationals of Treaty Country in E, H & L Status			
U.S. citizens and permanent residents			
Other			
Total			

Total number of employees the alien would supervise; or describe the nature of the specialized skills essential to the U.S. company.

If the alien will work in a position requiring specialized skills, describe your efforts to train U.S. workers in these skills.

Section 3. Complete if filing for an E-1 Treaty Trader

Total Annual Gross Trade/Business of the U.S. company $	Imports from third countries to U.S. company $
Year Ending	Exports for U.S. to third countries $
Exports for treaty country to U.S. company $	Domestic U.S. trade $
Imports from U.S. company to treaty country $	Other (explain on separate paper) $

Section 4. Complete if filing for an E-2 Treaty Investor

Total Investment:	Cash $	Equipment $	Other $
	Inventory $	Premises $	Total $

U.S. Department of Justice
Immigration and Naturalization Service

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L Classification
Supplement to Form I-129

Name of person or organization filing petition:

Name of person you are filing for:

This petition is (check one): ☐ An individual petition ☐ A blanket petition

Section 1. Complete this section if filing an individual petition.

Classification sought (check one): ☐ L-1A manager or executive ☐ L-1B specialized knowledge

List the alien's, and any dependent family members' prior periods of stay in an L classification in the U.S. for the last seven years. Be sure to list only those periods in which the alien and/or family members were actually in the U.S. in an L classification.

Name and address of employer abroad

Dates of alien's employment with this employer. Explain any interruptions in employment.

Description of the alien's duties for the past 3 years.

Description of alien's proposed duties in the U.S.

Summarize the alien's education and work experience.

The U.S. company is, to the company abroad: (check one)

☐ Parent ☐ Branch ☐ Subsidiary ☐ Affiliate ☐ Joint Venture

Describe the stock ownership and managerial control of each company.

Do the companies currently have the same qualifying relationship as they did during the one-year period of the alien's employment with the company abroad? ☐ Yes ☐ No (attach explanation)

Is the alien coming to the U.S. to open a new office?

☐ Yes (explain in detail on separate paper) ☐ No

Section 2. Complete this section if filing a Blanket Petition.

List all U.S. and foreign parent, branches, subsidiaries and affiliates included in this petition. (Attach a separate paper if additional space is needed.)

Name and Address — Relationship

Explain in detail on separate paper.

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U.S. Department of Justice
Immigration and Naturalization Service

H Classification
Supplement to Form I-129

Name of person or organization filing petition:

Name of person or total number of workers or trainees you are filing for:

List the alien's and any dependent family members; prior periods of stay in H classification in the U.S. for the last six years. Be sure to list only those periods in which the alien and/or family members were actually in the U.S. in an H classification. If more space is needed, attach an additional sheet.

Classification sought (check one):

- ☐ H-1A Professional nurse
- ☐ H-1B Specialty occupation
- ☐ H-1B Department of Defense cooperative research and development project or a coproduction project
- ☐ H-2A Agricultural worker
- ☐ H-2B Nonagricultural worker
- ☐ H-3 Trainee
- ☐ H-3 Special education exchange visitor program

Section 1. Complete this section if filing for H-1A or H-1B classification.

Describe the proposed duties

Alien's present occupation and summary of prior work experience

Statement for H-1B speciality occupations only:

By filing this petition, I agree to the terms of the labor condition application for the duration of the alien's authorized period of stay for H-1B employment.

Petitioner's Signature Date

Statement for H-1B specialty occupations and DOD projects:

As an authorized official of the employer, I certify that the employer will be liable for the reasonable costs of return transportation of the alien abroad if the alien is dismissed from employment by the employer before the end of the period of authorized admission.

Signature of authorized official of employer Date

Statement for H-1B DOD projects only:

I certify that the alien will be working on a cooperative research and development project or a coproduction project under a reciprocal Government to Government agreement administered by the Department of Defense.

DOD project manager's signature Date

Section 2. Complete this section if filing for H-2A or H-2B classification.

Employment is: (check one)
- ☐ Seasonal
- ☐ Peakload
- ☐ Intermittent
- ☐ One-time occurrence

Temporary need is: (check one)
- ☐ Unpredictable
- ☐ Periodic
- ☐ Recurrent annually

Explain your temporary need for the alien's services (attach a separate paper if additional space is needed).

Continued on back.

Section 3. Complete this section if filing for H-2A classification.

The petitioner and each employer consent to allow government access to the site where the labor is being performed for the purpose of determining compliance with H-2A requirements. The petitioner further agrees to notify the Service in the manner and within the time frame specified if an H-2A worker absconds or if the authorized employment ends more than five days before the relating certification document expires, and pay liquidated damages of ten dollars for each instance where it cannot demonstrate compliance with this notification requirement. The petitioner also agrees to pay liquidated damages of two hundred dollars for each instance where it cannot be demonstrated that the H-2A worker either departed the United States or obtained authorized status during the period of admission or within five days of early termination, whichever comes first.

The petitioner must execute Part A. If the petitioner is the employer's agent, the employer must execute Part B. If there are joint employers, they must each execute Part. C.

Part A. Petitioner:

By filing this petition, I agree to the conditions of H-2A employment, and agree to the notice requirements and limited liabilities defined in 8 CFR 214.2 (h) (3) (vi).

Petitioner's signature _____ Date _____

Part B. Employer that is not petitioner:

I certify that I have authorized the party filing this petition to act as my agent with regard to it. I assume full responsibility for all representations made by this agent on my behalf, and agree to the conditions of H-2A eligibility.

Employer's signature _____ Date _____

Part C. Joint Employers:

I agree to the conditions of H-2A eligibility.

Joint employer's signature(s) _____ Date _____

Joint employer's signature(s) _____ Date _____

Joint employer's signature(s) _____ Date _____

Joint employer's signature(s) _____ Date _____

Joint employer's signature(s) _____ Date _____

Section 4. Complete this section if filing for H-3 classification.

If you answer "yes" to any of the following questions, attach a full explanation.

a. Is the training you intend to provide, or similar training, available in the alien's country? ☐ No ☐ Yes
b. Will the training benefit the alien in pursuing a career abroad? ☐ No ☐ Yes
c. Does the training involve productive employment incidental to training? ☐ No ☐ Yes
d. Does the alien already have skills related to the training? ☐ No ☐ Yes
e. Is this training an effort to overcome a labor shortage? ☐ No ☐ Yes
f. Do you intend to employ the alien abroad at the end of this training? ☐ No ☐ Yes

If you do not intend to employ this person abroad at the end of this training, explain why you wish to incur the cost of providing this training, and your expected return from this training.

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U.S. Department of Justice
Immigration and Naturalization Service

O and P Classifications
Supplement to Form I-129

Name of person or organization filing petition:

Name of person or group or total number of workers you are filing for:

Classification sought (check one):

- ☐ O-1 alien of extraordinary ability in sciences, art, education, business or athletics
- ☐ O-1 alien of extraordinary achievements in motion picture or TV productions
- ☐ O-2 accompanying alien for O-1 athlete or artist for a specific event
- ☐ P-1 Athlete
- ☐ P-1 member of entertainment group
- ☐ P-2 artist or entertainer for reciprocal exchange program
- ☐ P-3 artist or entertainer for culturally unique program
- ☐ P-1S Essential Support Personnel for P-1
- ☐ P-2S Essential Support Personnel for P-2
- ☐ P-3S Essential Support Personnel for P-3

Explain the nature of the event

Describe the duties to be performed

If filing for O-2 or P support alien, dates of the alien's prior experience with the O-1 or P alien.

Have you obtained the required written consultations(s)? ☐ Yes - attached ☐ No - Copy of request attached

If not, give the following information about the organizations(s) to which you have sent a duplicate of this petition.

O-1 Extraordinary ability

Name of recognized peer group — Phone #

Address — Date sent

O-1 Extraordinary achievement in motion pictures or television

Name of labor organization — Phone #

Address — Date sent

Name of management organization — Phone #

Address — Date sent

O-2 or P alien

Name of labor organization — Phone #

Address — Date sent

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U.S. Department of Justice
Immigration and Naturalization Service

Q & R Classifications
Supplement to Form I-129

Name of person or organization filing petition:

Name of person you are filing for:

Section 1. Complete this section if you are filing for a Q international cultural exchange alien.

I hereby certify that the participant(s) in this international cultural exchange program:

- is at least 18 years of age,
- intends to enter and remain in the United States only in accordance with any authorized stay,
- intends to return abroad voluntarily at or before termination of that authorized stay,
- has the ability to communicate effectively about the cultural attributes of his or her country of nationality to the American public.
- has a residence in a foreign country which he/she has not abandoned and has no intention of abandoning, and
- has not previously been in the United States as a Q nonimmigrant unless he/she has resided and been physically present outside the U.S. for the immediate prior year.

Petitioner's signature

Date

Section 2. Complete this section if you are filing for an R religious worker.

List the alien's, and any dependent family members, prior periods of stay in R classification in the U.S. for the last six years. Be sure to list only those periods in which the alien and/or family members were actually in the U.S. in an R classification.

Describe the alien's proposed duties in the U.S.

Describe the alien's qualifications for the vocation or occupation

Description of the relationship between the U.S. religious organization and the organization abroad of which the alien was a member.

Continued on back

Supplement-1

Attach to Form I-539/I-129 when more than one person is included in the petition or application. *(List each person separately. Do not include the person you named on the petition form).*

Family Name | Given Name | Middle Initial | Date of Birth (month/day/year)
Country of Birth | Social Security No. | A#
IF IN THE U.S. | Date of Arrival *(month/day/year)* | I-94#
Current Nonimmigrant Status: | Expires on *(month/day/year)*
Country where passport issued | Expiration Date (month/day/year) | Date Started with group (I-129 only)

Family Name | Given Name | Middle Initial | Date of Birth (month/day/year)
Country of Birth | Social Security No. | A#
IF IN THE U.S. | Date of Arrival *(month/day/year)* | I-94#
Current Nonimmigrant Status: | Expires on *(month/day/year)*
Country where passport issued | Expiration Date (month/day/year) | Date Started with group (I-129 only)

Family Name | Given Name | Middle Initial | Date of Birth (month/day/year)
Country of Birth | Social Security No. | A#
IF IN THE U.S. | Date of Arrival *(month/day/year)* | I-94#
Current Nonimmigrant Status: | Expires on *(month/day/year)*
Country where passport issued | Expiration Date (month/day/year) | Date Started with group (I-129 only)

Family Name | Given Name | Middle Initial | Date of Birth (month/day/year)
Country of Birth | Social Security No. | A#
IF IN THE U.S. | Date of Arrival *(month/day/year)* | I-94#
Current Nonimmigrant Status: | Expires on *(month/day/year)*
Country where passport issued | Expiration Date (month/day/year) | Date Started with group (I-129 only)

Family Name | Given Name | Middle Initial | Date of Birth (month/day/year)
Country of Birth | Social Security No. | A#
IF IN THE U.S. | Date of Arrival *(month/day/year)* | I-94#
Current Nonimmigrant Status: | Expires on *(month/day/year)*
Country where passport issued | Expiration Date (month/day/year) | Date Started with group (I-129 only)

DRAFT

BILLING CODE 4410-10-C

OMB#1115–XXXX

Nonimmigrant Petition based on Blanket L Petition

Instructions

Purpose of This Form

This form is for an employer to classify employees as L–1 nonimmigrant intracompany transferees under a blanket L petition approval.

Who May File

An employer who has already obtained approval of a blanket L–1 petition may file this form to classify employees outside the U.S. as executives, managers, or specialized knowledge professionals. If the employee is in the U.S. and you are requesting a change of status or extension of stay for that employee, use Form 1–129, Petition for a Nonimmigrant Worker.

General Filing Instructions

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A". If the answer is "none," write "none". If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), if any, and indicate the number of the item to which the answer refers. You must file your petition with the required Initial Evidence. Your petition must be properly signed and filed with the correct fee. Retain a copy of the form for your records.

Translations. Any foreign language document must be accompanied by a full English translation which the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate from the foreign language into English.

Copies. If these instructions state that a copy of a document may be filed with this petition, and you choose to send us the original, we may keep that original for our records.

Initial Evidence

- You must file your petition with:
- A copy of the approval notice for the blanket petition;
- A letter from the alien's foreign qualifying employer detailing his/her dates of employment, job duties, qualifications, and salary for the 3 previous years; and
- If the alien is a specialized knowledge professional, a copy of a U.S. degree, a foreign degree equivalent to a U.S. degree, or evidence establishing that the combination of the beneficiary's education and experience is the equivalent of a U.S. degree.

Fee

There is no fee for this petition.

Processing Information

Rejection. Any petition that is not signed, or is not accompanied by the correct fee, will be rejected with a notice that the petition is deficient. You may correct the deficiency and resubmit the petition. However, a petition is not considered properly filed until accepted by the Service.

Initial processing. Once a petition has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file if without required initial evidence, you will not establish a basis for eligibility, and we may deny your petition.

Requests for more information or interview. We may request more information or evidence, or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are not longer required.

Decision. You will be notified in writing of the decision on your petition. If you filed it at an INS Service Center and it is approved, the petition will be sent to you so you can send it to the alien to present at a port of entry when he enters the U.S.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1154. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 10 minutes to learn about the law and form; (2) 10 minutes to complete the form; and (3) 15 minutes to assemble and file the petition; for a total estimated average of 35 minutes per petition. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115–XXXX, Washington, D.C. 20503.

BILLING CODE 4410–10–M

DRAFT

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-XXXX

Nonimmigrant Petition based on Blanket L Petition

START HERE - Please Type or Print

Part 1. Information about employer.

Sponsoring Company or Organization's Name

Address - ATTN:

Street Number and Name | Room #

City or Town | State or Province

Country | ZIP/Postal Code

Part 2. Information about employment.

This alien will be a:

a. ☐ manager/executive

b. ☐ specialized knowledge professional

Blanket petition approval number is: _____

Part 3. Information about employee.

Family Name | Given Name | Middle Initial

Foreign Address
Street Number and Name | Apt. #

City | State or Province

Country | ZIP/Postal Code

Date of Birth (Month/Day/Year) | Country of Birth

Part 4. Additional information about the employment.

Address

Street Number and Name | Room #

City or Town | State or Province

Country | ZIP/Postal Code

Dates of intended employment (Month/Day/Year) From | To

Weekly Wage | Hours per Week

Title and detailed description of duties to be performed.

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
☐ Petitioner Interviewed ☐ Beneficiary Interviewed	

Approved as:
☐ manager/executive
☐ specialized knowledge professional

Validity dates
From: _____
To:

Denied (give reason)

Action Block

To Be Completed by *Attorney or Representative*, if any

☐ Fill in box if G-28 is attached to represent the applicant

VOLAG#

ATTY State License #

Form I-129S (Rev. 08/19/91) DRAFT 4

Continued on back.

Part 4. (Continued).

Give the aliens dates of prior periods of stay in the U.S. in a worked authorized capacity and the type of visa.

Give the alien's dates of employment and job duties for the immediate prior three years.

Summarize the alien's education and other work experience.

Part 5. Signature. Read the information on penalties in the instructions before completing this section.

I certify, under penalty of perjury under the laws of the United States of America, that this petition, and the evidence submitted with it, is all true and correct. If filing this on behalf of an organization, I certify that I am empowered to do so by that organization. If this petition is to extend a prior petition, I certify that the proposed employment is under the same terms and conditions as in the prior approved petition. I authorize the release of any information from my records, or from the petitioning organization's records, which the Immigration and Naturalization Service needs to determine eligibility for the benefit being sought.

Signature Print Name Date

Please Note: If you do not completely fill out this form, or fail to submit required documents listed in the instructions, then the person(s) filed for cannot be found eligible for the requested benefit, and your petition may be denied.

Part 6. Signature of person preparing form if other than above.

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature Print Name Date

Firm Name
and Address

DRAFT

BILLING CODE 4410-10-C

DRAFT

OMB# 1 15–XXXX

Immigrant Petition for Relative, Fiance(e) or Orphan

Instructions

Purpose of This Form

This form is for a United States citizen, permanent resident, refugee or person granted asylum to petition for a relative, fiance(e) or orphan. The form consists of a basic petition, and different supplements that apply to each specific classification. You may file for one person per petition.

Who May File

United States Citizen. If you are a United States citizen, you may file for your spouse, son, daughter, brother, sister of parent.

You may also file for your fiance(e) if he or she is outside the U.S. You must have personally met your fiance(e) within the last two years, unless there are extraordinary circumstances which prohibit your having met. Both of you must be unmarried and able to enter into a valid marriage, and you both must have already decided to marry, and intend to marry each other, within 90 days of his or her admission to the U.S., and to thereafter maintain a continuing relationship as husband and wife.

You may also file for an orphan you adopted abroad or intend to adopt in the U.S. after he or she immigrates. If you are single, you must be at least 25 years old at the time of the adoption and when this petition is filed. An "orphan" is a child under the age of 16 who has lost both parents or whose sole surviving parent is unable to provide adequate care for the child and has unconditionally released the child for adoption and emigration.

There are two ways to file for an orphan.

• You can file for a specific, named child. In the petition you must establish your ability to provide adequate care for the orphan and that the child qualifies as an orphan.

• Instead of a single petition, you can file in two steps. This allows you to establish your ability to provide adequate care in advance. You may file such an advance processing application when: • A child has not been located and identified for you; or • You, and/or your spouse, if married, are traveling abroad to a country with no INS office, to adopt a known child while abroad; or to facilitate the immigration of a known child coming to the U.S. when you want to file the petition at the U.S. Consulate or Embassy which has jurisdiction over the child's residence.

If this application is approved, you will then have to file a petition to establish that the specific child qualifies as an orphan. The petition must be properly filed within one year of filing the advance processing application.

Permanent Resident. If you are a permanent resident, you may file for your spouse, or for your unmarried son or daughter.

Refugee or Asylee. If you hold refugee or asylee status, you may file for:

• Your spouse, if the marriage occurred before you were granted asylum or before refugee status was tentatively approved at your interview before an Immigration Officer; or

• Your unmarried son or daughter who is less than 21 years old, if the child was born or conceived before you were granted asylum or before refugee status was tentatively approved at your interview before an Immigration Officer.

General Filing Instructions

Please answer all questions by typing or clearly printing in black ink. Complete the basic form and the appropriate supplement. Indicate that an item is not applicable with "N/A". If an answer to a question is "none," please so state. If you need extra space to answer any item, attach a sheet of paper with your name and your A#, if any, and indicate the number of the item to which the answer refers. You must file your petition with the required Initial Evidence. Your petition must be properly signed and filed with the correct fee. If you are married and filing an orphan petition, your spouse must also sign the petition.

Additional Information About Review Of a Petition For a Spouse

Review of a petition for a spouse is to determine if the marriage is legally valid and is a basis for allowing the spouse to immigrate to the United States. Even if a marriage is legally valid, a petition will not be approved if:

• You and your spouse were not both physically present at the marriage ceremony, and the marriage has not been consummated;

• Your spouse has attempted, or conspired, to enter into a marriage for the purpose of evading immigration laws; or

• There is not evidence of a continuing relationship of husband and wife sufficient to demonstrate that the marriage is not merely for the purpose of immigration.

Initial Evidence

Filing for a spouse. You must file your petition with:

• Evidence you are a U.S. citizen, permanent resident, refugee or asylee (see General Evidence);

• A copy of your marriage certificate;

• If either you or your spouse were married before, file copies of documents showing that any prior marriage was legally terminated;

• Photographs (see General Evidence);

• If your spouse is now in deportation or exclusion proceedings, file copies of evidence which clearly shows that the marriage is not for the purpose of evading immigration laws; and

• If you obtained permanent residence through marriage within the last five years, file copies of evidence which clearly shows that the marriage through which you obtained status was not to obtain immigration benefits.

Filing for a son or daughter. You must file your petition with:

• Evidence you are a U.S. citizen, permanent resident, refugee or asylee (see General Evidence),

• A copy of the child's birth certificate showing parents' names,

• If you are the father, file a copy of the marriage certificate establishing that you were married to the mother when the child was born, and copies of documents showing that any prior marriages of either you or the mother were legally terminated; and

• If you are filing for a child you adopted or for your stepchild, or if you are a father filing for an illegitimate child, see General Evidence for additional requirements.

Filing for a parent. You must file your petition with:

• Evidence you are a U.S. citizen (see General Evidence);

• A copy of your birth certificate showing your name and the names of your parent(s);

• If you are filing for your father, submit a copy of your parents' marriage certificate establishing that your father was married to your mother when you were born, and copies of documents showing that any prior marriages of either your father or mother were legally terminated; and

• If you are filing for a stepparent or adoptive parent, or if you are filing for your father and were not legitimated before your 18th birthday, see also General Evidence.

Filing for a brother or sister. You must file your petition with:

• Evidence you are a U.S. citizen (see General Evidence);

• A copy of your birth certificate and a copy of the birth certificate of your brother or sister, showing that you have

at least one common parent; if you and your brother or sister have a common father but different mothers, file copies of the marriage certificates of the father to each mother and copies of documents showing that any prior marriages of either your father or mother were legally terminated; and

• If you and your brother or sister are related through adoption or through a stepparent, or if you have a common father and either of you were not legitimated before your 18th birthday, also see General Evidence.

Filing for a fiance(e). You must file your petition with:

• Evidence you are a U.S. citizen (see General Evidence),

• If either you or your fiance(e) were married before, file copies of documents showing that each prior marriage was legally terminated;

• Photographs (see General Evidence),

• Copies of evidence that your and your fiance(e) have personally met within the last two years, or, if you have never met or have not met within the last two years, file a detailed explanation and evidence of the extraordinary circumstances which have prohibited your meeting; and

• Original statements from you and your fiance(e) that you plan to marry the other within 90 days of his/her admission, and copies of any evidence you wish to submit to establish your mutual intent.

Filing an Advance Processing Application for an Orphan

You must file your application with:

• Two sets of your fingerprints and, if you are married, two sets of your spouse's fingerprints, on Form FD–258;

• Evidence of your age and U.S. citizenship (see General Evidence);

• If you are married, file a copy of your marriage certificate, and, if either of you were married before, copies of documents showing that each prior marriage was legally terminated;

• An original, valid home study, conducted by, and with the favorable recommendation of, either an agency of the state the child will live in, or, an agency authorized by that state to conduct such a study, or in the case of a child adopted abroad, an appropriate public or a private adoption agency licensed in the U.S.

The home study must include:

• A factual evaluation of the financial, physical, mental, and moral capabilities of the prospective parent or parents to rear and educate the child properly;

• A detailed description of the living accommodations where the prospective parent or parents currently reside, and where the child will live, if known;

• A statement recommending the adoption, signed by an official of the responsible state agency in the state of the child's proposed residence or agency authorized by that state if the child will be adopted in the U.S., or by an official of an appropriate public or private adoption agency licensed in any state in the U.S., if the child has been adopted abroad.

If this advance processing application is approved, the subsequent petition to prove the child is an orphan must be filed with:

• A copy the child's birth certificate, or, if a certificate is not available, other proof of the child's age and parentage;

• Copies of any death certificates of the child's parent(s);

• If the child has only one parent, copies of evidence he or she is incapable of providing for the child, and original evidence he or she has irrevocably released the child for emigration and adoption;

• A copy of the adoption decree, if the child has been adopted abroad;

• If the orphan is to be adopted in the U.S., file evidence you have complied with any pre-adoption requirements of the state where the child will live unless they cannot be complied with until the child arrives in the U.S.; and

• If you are single, file evidence that adoption by an unmarried person is permitted in the state where you and the child will live.

Filing for an orphan with a single petition. If you have identified a child and all processing will be completed in the U.S., file your petition with all of the evidence listed above and the petition will be processed in one step.

General Evidence

Evidence of U.S. citizenship. If you are a United States citizen, you must file your petition with evidence of your citizenship. This may include:

• A copy of your birth certificate if you were born in the United States;

• A copy of your naturalization certificate or certificate of citizenship issued by this Service;

• A copy of Form FS–240, Report of Birth Abroad of a Citizen of the United States, issued by an American Consul

• A copy of your unexpired U.S. passport; or

• An original statement from a U.S. consular officer verifying that your are a U.S. citizen with a valid passport.

Evidence of permanent residence. If you are a permanent resident, you must file your petition with a copy of your alien registration receipt card, copies of your passport biographic page and the page showing admission as a permanent resident, or other evidence of permanent resident status issued by INS.

Evidence of refugee or asylee status. If you are an asylee or refugee, you must submit the document issued by this Service showing your status.

Change of name. If either you or the person you are filing for is using a name other than that shown on the relevant documents, you must file your petition with copies of the legal documents that made the change, such as a marriage certificate, adoption decree or court order.

Non-Orphan Adoption. If you and the person you are filing for are related by adoption, you must file your petition with a copy of the adoption decree(s) showing the adoption took place before the child reached 16, and copies of evidence the child was in the legal custody of, and resided with, the parent(s) who adopted him or her for at least 2 years before or after the adoption. Legal custody may only be granted by a court or other agency expressly given that authority and is usually granted at the time of the adoption.

Stepparent-stepchild. If your petition is based upon a stepparent-stepchild relationship, you must file your petition with a copy of the marriage certificate of the stepparent to the child's natural parent showing that the marriage occurred before the child's 18th birthday, and copies of documents showing that any prior marriages were legally terminated.

Illegitimate child. If your petition is based upon the relationship of father and child, and the child was not legitimated before reaching 18, you must file your petition with copies of evidence that a bona fide parent-child relationship existed between the father and the child before the child reached 21. This may include evidence that the father lived with the child, supported him or her, or otherwise showed continuing parental interest in the child's welfare.

Secondary evidence. All of the documents listed in "Initial Evidence" should be issued by the civil registrar, vital statistics office, or other civil authority. If such documents are unavailable, you must file your petition with documentation from those authorities to establish why primary evidence is unavailable, and must also submit secondary evidence to establish the facts in question. Submit as many types of secondary evidence as possible to verify the claimed relationship. Listed below are some types of secondary evidence. Any evidence submitted must

contain enough information (birth dates, parents' names, etc.) to establish the event you are trying to prove.

• Baptismal certificate. A certificate under the seal of the church where the baptism occurred within two months after birth showing date and place of the child's birth, date of baptism, and the names of the child's parents.

• School record. A letter from the school authority (preferably from the first school), showing the date of admission to the school, child's date of birth or age at that time, place of birth, and the names and places of birth of parents, if shown in the school records.

• Census record. State or federal census record showing the name(s) and place(s) of birth, and date(s) of birth or age(s) of the person(s) listed.

If all forms of primary and secondary evidence are unavailable, you must file your petition with original evidence to establish such unavailability, and also submit at least 2 affidavits sworn to, or affirmed, by persons who were living at the time, and have direct personal knowledge of the event you are trying to prove (date and place of birth, marriage, death, etc.). These persons may be relatives and need not be citizens of the United States. Each affidavit should give the person's full name and address, date and place of birth, and any relationship to you. Each affidavit must also fully describe the circumstances or event in question, and fully explain how he or she acquired knowledge of the event.

Photos. If you are petitioning for your spouse or fiance(e), you must submit 2 identical natural color photographs of yourself and 2 of your spouse or fiance(e). The photos must have been taken within 30 days of this petition. They must have a white background, be unmounted, printed on thin paper and be glossy and unretouched. They should show a three-quarter frontal profile showing the right side of your face, with your right ear visible and with your head bare (unless you are wearing a headdress as required by a religious order of which you are a member). The photos should be no larger than 2×2 inches, with the distance from the top of the head to just below the chin about 1 and ¼ inches. Lightly print the name and any A# on the back of each photo with a pencil.

Translations. Any foreign language document must be accompanied by a full English translation which the translator has certified complete and as correct, and by the translator's certification that he or she is competent to translate from the foreign language into English.

Copies. If these instructions state that a copy of a document may be filed with this petition, and you choose to send us the original, we may keep that original for our records.

Where To File

Petition for relative or fiance(e). If you are filing a relative petition with an application to adjust status on Form I–485, file them both at your local INS office. In all other instances file a petition for a relative, and any petition for a fiance(e), as follows:

If you live in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, Virginia, or West Virginia, mail this petition to: USINS Eastern Service Center, 75 Lower Welden Street, St. Albans, VT 05479.

If you live in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, or Texas, mail this petition to: USINS Southern Service Center, P.O. Box 152122, Dept. A, Irving TX 75015–2122.

If you live in Arizona, California, Guam, Hawaii, or Nevada, mail this petition to: USINS Western Service Center, P.O. Box 30040, Laguna Niguel, CA 92607–0040.

If you live elsewhere in the U.S., mail this petition to: USINS Northern Service Center, 100 Centennial Mall North, Room, B–26, Lincoln, NE 68508.

If you live outside the U.S., you may mail your petition to the INS Service Center, listed above, which has jurisdiction over the last place you lived in the U.S., or you may file it at the INS overseas office which has jurisdiction over where you now live. You may inquire at a U.S. consulate for the address of the appropriate INS overseas office.

Petition for an Orphan. If you live in the U.S., file your petition at the local INS office which has jurisdiction over where you live. If you now live in Canada, file your petition at the local INS office which has jurisdiction over where you and the child will live in the U.S. If you now live outside the U.S. or Canada, you may file your petition at the local INS office which has jurisdiction over where you and the child will live in the U.S., or you may file your petition with the overseas office of this Service which has jurisdiction over where you now live. You may inquire at a U.S. consulate for the address of the appropriate INS overseas office.

If an advance processing application is approved, the petition may be filed at the same Service office, or it may be filed at the appropriate INS overseas office, or, in some instances, at the U.S. consulate which has jurisdiction over the place the child now lives.

Fee

If you are filing a petition for a relative or finance(e), the fee is $75.00. If you are filing a single orphan petition, or an advance processing application for an orphan, the fee is $140.00. There is no fee for a subsequent petition for a named orphan based on an approved advance processing application.

The fee must be submitted in the exact amount. It cannot be refunded. DO NOT MAIL CASH. All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

• If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."

• If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Processing Information

Rejection. Any petition that is not signed, or is not accompanied by the correct fee, will be rejected with a notice that the petition is deficient. You may correct the deficiency and resubmit the petition. However, a petition is not considered properly filed until accepted by the Service.

Initial processing. Once a petition has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file if without required initial evidence, you will not establish a basis for eligibility, and we may deny your petition.

Requests for more information or interview. We may request more information or evidence, or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision. If you establish that the person you are filing for qualifies for the classification requested, you petition

will be approved. If you do not establish eligibility, the petition will be denied. You will be notified in writing of the decision.

Meaning of a Petition

The filing or approval of your petition does not authorize the person you filed for to enter or remain in the United States or grant employment authorization. Approval of a petition establishes a basis for the person to apply for a visa or for adjustment of status, or for the issuance of travel documents in the case of the spouse and children of a refugee or asylee. A petition for a relative also gives the relative a place in line for a visa behind others with approved petitions for the same classification. The place in line is determined by the priority date of the petition, which is the date it was properly filed. (There is no waiting line for a person applying based on an approved petition for a U.S. citizen's spouse, parent or unmarried son or daughter who is less than 21 years old.)

Based on an approved petition the person can, when his or her place in line is reached, apply for a visa, or, if he or she is already in the U.S., he or she may be able to apply to adjust status instead of traveling abroad to apply for an immigrant visa. For information about whether a person who is already in the U.S. can apply for adjustment of status, see Form I–485.

Processing After Approval

Petition for Relative. Your approved petition will be sent to the Department of State for forwarding to the appropriate U.S. Consulate. If you are a U.S. citizen or permanent resident and you indicate in your petition that the person you are filing for is already in the U.S. and will apply to adjust his or her status to permanent resident, and if he or she appears eligible to adjust based on the information in the petition, we will keep the petition on file and notify you to have him or her file Form I–485. If he or she does not appear eligible to adjust, we will send the petition to the Department of State to be forwarded to the designated U.S. Consulate.

Petition for Fiance(e). Your approved petition will be sent to the Department of State for forwarding to the appropriate U.S. Consulate. If the consulate issues a visa, and your fiance(e) is admitted, he or she will be admitted for 90 days. His or her status will expire at the end of that time unless within that period the two of you marry, and, based on the marriage, he or she files an application to adjust on Form I–485.

Petition for Orphan. An approved advance processing application will be held for one year and a separate petition which includes the evidence relating to the child must be filed within that year. Any other approved orphan petition will be forwarded to the Department of State for forwarding to the appropriate U.S. consulate.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1154, 1157 and 1158. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 20 minutes to learn about the law and form; (2) 25 minutes to complete the form; and (3) 110 minutes to assemble and file the petition; for a total estimated average of 2 hours and 35 minutes per petition. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115–XXXX, Washington, D.C. 20503

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

DRAFT

OMB #1115-XXXX

Immigrant Petition for Relative, Fiance(e) or Orphan

START HERE - Please Type or Print

Part 1. Information about you.

The United States Citizen, permanent resident, refugee or asylee filing this petition.

Family Name	Given Name	Middle Initial

Address - C/O:

Street Number and Name	Apt. #
City	State or Province
Country	ZIP/Postal Code

Social Security #	A #	Naturalization Certificate #

Part 2. Petition Type (check one).

I am a citizen of the United States and am petitioning for:

- a. ☐ my spouse
- b. ☐ my unmarried son or daughter who is less than 21 years old
- c. ☐ my unmarried son or daughter who is 21 years old or older
- d. ☐ my married son or daughter
- e. ☐ my parent
- f. ☐ my sister or brother
- g. ☐ my fiance or fiancee
- h. ☐ a specific named orphan in one petition
- i. ☐ an advanced processing application for an orphan
- j. ☐ a named orphan based on an approved advance processing application

I am a Permanent Resident or Conditional Resident and am petitioning for:

- k. ☐ my spouse
- l. ☐ my unmarried son or daughter who is less than 21 years old
- m. ☐ my unmarried son or daughter who is 21 years old or older

I now hold Refugee or Asylee status in the U.S. and am petitioning for:

- n. ☐ my spouse
- o. ☐ my unmarried son or daughter who is less than 21 years old

Part 3. Information about the person you are filing for

Family Name	Given Name	Middle Initial

Address - C/O:

Street Number and Name	Apt. #
City	State or Province
Country	ZIP/Postal Code

Date of Birth (Month/Day/Year)	Country of Birth
Social Security #	A #
If in the U.S. Date of Arrival (Month/Day/Year)	I-94 #
If in the U.S. Current Immigration Status	Expires on (Mont/Day/Year)

Form I-130 (Rev. 11/01/91) N

Continued on back.

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	

Interviewed
☐ Beneficiary
☐ Petitioner

File Reviewed
☐ Beneficiary
☐ Petitioner

☐ 204(a)(2)(A) Resolved
☐ 204(g) Resolved
☐ I-485 Concurrently Filed

Classification
201(b) ☐ spouse ☐ Child ☐ Parent
☐ 203(a)(1) USC-Unmarried Son, Daughter
203(a)(2)(A) LPR-Spouse, Child
☐ General ☐ Leg. Deriv.
☐ 203(a)(2)(B) LPR - Unmarried Son, Daughter
☐ 203(a)(3) USC - Married Son, Daughter
☐ 203(a)(4) USC - Sibling
☐ Fiancee ☐ 207(c) ☐ 208(c)
Orphan ☐ Full App. ☐ Adv. Proc. App.
☐ Pet. Based on Appl. Adv. Proc. App.

Priority Date	Consulate

Action Block

To Be Completed by *Attorney or Representative*, if any
☐ Fill in box if G-28 is attached to represent the applicant

VOLAG#

ATTY State License #

Part 4. My immigration status.

A. Documentation - Check one box.

I am a **United States Citizen.** Attached is a copy of:

a. ☐ my birth certificate showing I was born in the United States
b. ☐ my naturalization certificate
c. ☐ my citizenship certificate
d. ☐ my United States Passport
e. ☐ my United States citizen I.D. Card
f. ☐ my Report of Birth Abroad of a Citizen of the U.S.A (FS 240)

I am a **United States Citizen.**

g. ☐ I do not have any of the above documents. Attached is a written explanation of my claim to citizenship and copies of supporting documentation.

I am a **Permanent Resident or Conditional Resident** of the United States.

h. ☐ Attached is a copy of my Alien Registration Card or other evidence of that status.

I now hold U.S. **Refugee or Asylee** status.

i. ☐ Attached is a copy of the INS document issued to me showing my status and any expiration date.

B. Have you ever surrendered, renounced, abandoned or otherwise given up the status claimed above, or has such status expired or ever been revoked or otherwise taken away by the U.S. government?

☐ No ☐ Yes (explain on separate paper)

Part 5. Processing Information.

A. At right give the U.S. Consulate you want notified if this petition is approved and adjustment of status cannot be applied for or granted. — American Consulate at: (City) _____ Country _____

B. If you gave a U.S. address in Part 3., give the person's foreign address at the right. If his/her native alphabet does not use Roman letters, print his/her name and foreign address in the native alphabet. — Name _____ Address _____

C. Are you filing any other relative petitions with this one? ☐ No ☐ Yes - How many?

D. If the person you are filing for in exclusion or deportation proceedings? ☐ No ☐ Yes - explain on separate paper

E. Did you receive permanent or conditional resident status within the past five years based on marriage? ☐ No ☐ Yes - explain on separate paper

Part 6. Signature.

Read the information on penalties in the instructions before completing this section. If you are going to file this petition at an INS office in the United States, sign below. If you are going to file it at an American Consulate or INS office overseas, sign in front of a U.S. INS or consular officer. If you are filing an orphan petition and you are married, your spouse must also sign this petition.

I certify, or, if outside the United States, I swear or affirm, under penalty of perjury under the laws of the United States of America, that this petition, and the evidence submitted with it, is all true and correct. I authorize the release of any information from my record which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Signature Print Name Date

Signature of INS or Consular Official Print Name Date

Please Note: You must attach one supplement to this petition. If you do not completely fill out this form and the supplement, or fail to submit required documents listed in the instructions, your relative cannot be found eligible for the requested document and this application will have to be denied.

Part 7. Signature of person preparing form if other than above. (sign below)

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature Print Name Date

Firm Name and Address

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U.S. Department of Justice
Immigration and Naturalization Service

Spouse/Fiance(e)
Supplement to Form I-130

Section 1. Additional information about you. (The U.S. Citizen, permanent resident, refugee or asylee)

Family Name	Given Name	Initial	Home Phone ( )	Work Phone ( )
List all other names ued (i.e. maiden name, aliases)			Date of Birth *Month/day/year*	Country of Birth

Sex: ☐ Male ☐ Female

Number of Prior marriages: ☐ None ☐ One ☐ Two ☐ Three or more - How many? _____

Education: Did you graduate from High School? ☐ Yes ☐ No

Do you have a bachelor's degree? ☐ Yes ☐ No

What is your current general occupation? (check one):

- ☐ Professional with at least a bachelor's degree
- ☐ Retail, food service or other service
- ☐ Manufacturing or construction
- ☐ Clerical
- ☐ Homemaker or not currently employer
- ☐ Other (specify):

Section 2. Information about your spouse or fiance(e).

Family Name	Given Name	Initial	Home Phone ( )	Work Phone ( )
List all other names used (i.e. maiden name, aliases)			Date of Birth *Month/day/year*	Country of Birth

Sex: ☐ Male ☐ Female

Number of Prior marriages: ☐ None ☐ One ☐ Two ☐ Three or more - How many? _____

Education: Did you graduate from High School? ☐ Yes ☐ No

Do you have a bachelor's degree? ☐ Yes ☐ No

What is your current general occupation? (check one):

- ☐ Professional with at least a bachelor's degree
- ☐ Retail, food service or other service
- ☐ Manufacturing or construction
- ☐ Clerical
- ☐ Homemaker or not currently employer
- ☐ Other (specify):

Section 3. Sons and daughters.

List all your sons and daughters and all those of your spouse/fiance(e). Start with the youngest. If necessary, continue on separate paper.

	Name	A #	Date of Birth	Parent	Living with you?
a.				☐ Me ☐ Spouse/Fiance(e) ☐ Both	☐ Yes ☐ No
b.				☐ Me ☐ Spouse/Fiance(e) ☐ Both	☐ Yes ☐ No
c.				☐ Me ☐ Spouse/Fiance(e) ☐ Both	☐ Yes ☐ No
d.				☐ Me ☐ Spouse/Fiance(e) ☐ Both	☐ Yes ☐ No
e.				☐ Me ☐ Spouse/Fiance(e) ☐ Both	☐ Yes ☐ No
f.				☐ Me ☐ Spouse/Fiance(e) ☐ Both	☐ Yes ☐ No

Section 4. Information about your marriage or engagement.

If Engaged	We first met on	We were engaged on	We last saw one another on	How often do you communicate?
If Married	We first met on	We were married on	We were married in (City, U.S. state, or country)	
	Type of Ceremony ☐ Religious ☐ Civil ☐ None		We are: ☐ Now living together ☐ Not living together	
If Married or Engaged	We intend to: (Check one) ☐ Live together in a home or apartment ☐ Live together with my family ☐ Live together with my spouse's family ☐ Live together with non-relatives ☐ Live separately from each other		We now have the following joint financial assets or contracts (check all that apply) ☐ Checking and/or Savings account ☐ Lease for apartment we occupy ☐ Mortgage for home we occupy ☐ Credit cards ☐ Consumer Loans	

List three people (such as relatives, friends, neighbors, co-workers, and employers) who know of your relationship.

a. Name		Relationship	How long known?
Address			Phone Number ( )
b. Name		Relationship	How long known?
Address			Phone Number ( )
c. Name		Relationship	How long known?
Address			Phone Number ( )

List your last two marriages (you being the U.S. citizen, permanent resident, refugee or asylee in Part 1)

a. Name		Married on	Ended on
Ended by (divorce, death, etc.)		Did he/she immigrate based on this marriage? ☐ Yes ☐ No	
b. Name		Married on	Ended on
Ended by (divorce, death, etc.)		Did he/she immigrate based on this marriage? ☐ Yes ☐ No	

Have you ever visited you current spouse/fiance(e)'s home country? ☐ Yes ☐ No

Have you ever filed another petition for him/her? ☐ Yes ☐ No	If yes, give date.	INS Office	File #	Decision
Has he/she ever been deported or excluded from the United States, or is he/she now in proceedings? ☐ No ☐ Yes- excluded ☐ Yes - Deported ☐ Yes - in proceedings			Date(s)	Place

Section 5 . Signature of spouse *If your spouse is in the United States, he or she must sign below.*

I certify, under penalty of perjury under the laws of the United States of America, that the above information is true and correct. I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit sought.

Signature Print Name Date

DRAFT

U.S. Department of Justice
Immigration and Naturalization Service

DRAFT

Other Relative (Son, Daughter or Parent)
Supplement to Form I-130

Section 1. Petition summary.

This petition is filed by:	Family Name	Given Name	Initial	Home Phone ( )
	List all other names used (i.e. maiden name, aliases)	Date of Birth *Month/day/year*		Sex ☐ Male ☐ Female
It is for:	Family Name	Given Name	Initial	Date of Birth *Month/day/year*

Section 2. Additional information about the person I am filing for.

List all other names used (i.e. maiden name, aliases)	Is this person married? ☐ Yes ☐ No	Has he/she been married before? ☐ Yes ☐ No
Name of His/Her Current or Last Spouse	Sex ☐ Male ☐ Female	A # (if any)

List all the children of the person you are filing for. If necessary, continue on separate paper.

1. Name	Date of Birth	A # (if any)
2. Name	Date of Birth	A # (if any)
3. Name	Date of Birth	A # (if any)
4. Name	Date of Birth	A # (if any)
5. Name	Date of Birth	A # (if any)

Section 3. Complete only if filing for your parent.

The person I am filing for is my: *(check one)*

- ☐ biological mother
- ☐ biological father who was married to my mother when I was born.
- ☐ biological father who was not married to my mother when I was born.
- ☐ adoptive parent:
  - 1) did the adoption occur before your 16th birthday? ☐ Yes ☐ No
  - 2) did he/she have custody of you for at least 2 years after the adoption? ☐ Yes ☐ No
  - 3) did you live with him/her for at least 2 years after the adoption? ☐ Yes ☐ No
- ☐ stepparent based on marriage to my parent which occurred before my 18th birthday.
- ☐ parent based on circumstances not described above (explain in detail on separate paper)

Did you gain permanent residence through adoption? ☐ Yes ☐ No

Section 4. Complete only if filing for your son or daughter.

I am this persons: *(check one)*

- ☐ biological mother
- ☐ biological father who was married to his/her mother when he/she was born.
- ☐ biological father who was not married to his/her mother when he/she was born.
- ☐ adoptive parent:
  - 1) did the adoption occur before his/her 16th birthday? ☐ Yes ☐ No
  - 2) did you have custody of him/her for at least 2 years after the adoption? ☐ Yes ☐ No
  - 3) did he/she live with you for at least 2 years after the adoption? ☐ Yes ☐ No
- ☐ stepparent based on marriage to his/her parent which occurred before his/her 18th birthday.
- ☐ parent based on circumstances not described above (explain in detail on separate paper)

Section 5. Complete only if filing for your brother or sister.

The person I am filing for and I have: (check one)

☐ The same two parents ☐ The same mother ☐ The same father

Supplement C on Back

U.S. Department of Justice
Immigration and Naturalization Service

DRAFT

Orphan
Supplement to Form I-130

Section 1. Additional Information about You.

Family Name	Given Name	Initial	Home Phone ( )	Work Phone ( )
List all other names used (i.e. maiden name, aliases)				Date of Birth *Month/day/year*
Are you married? ☐ Yes ☐ No	Number of Prior Marriages		How many children do you (and your spouse) have?	

Name and Address of organization or individual assisting in locating an orphan for this petition.

Have you (and/or your spouse) ever before filed a petition for a foreign orphan? *If yes, attach a copy of the INS decision(s), or give the date, INS office, File # and decision on a separate paper.* ☐ Yes ☐ No

Section 2. Information about My Husband or Wife. Complete if married.

Last Name	Given Name	Initial	Date of Birth *Month/day/year*
List All Other Names Used (i.e. maiden name, aliases)		A # (if any)	Number of Prior Marriages

Are you now living together? ☐ Yes ☐ No

Do you and this spouse intend to jointly adopt? ☐ Yes ☐ No

If you answer "no" to either question, explain in detail on separate paper.

Section 3. Complete only if filing for an unnamed orphan.

How many children do you plan to adopt at this time?

Will the adoption be completed abroad? ☐ Yes ☐ No

Do you (and/or your spouse) plan to travel abroad to locate or adopt a child? ☐ Yes ☐ No

If yes, give departure date.

Section 4. Complete only if filing for a named orphan.

Last Name of Child	Given Name	Initial	Date of Birth *Month/day/year*
List all other names used (i.e. maiden name, aliases)		Sex ☐ Male ☐ Female	Country of Birth

The child:

☐ Has no surviving parents ☐ has a sole or single surviving parent (Explain the loss or absence of parents on separate paper.)

Answer the following questions. If your answer is yes, attach a separate explanation.

1.	If there is a sole or single surviving parent, has he/she irrevocably released the child for emigration and adoption. *(attach a copy of the release.)*	☐ Yes	☐ No
2.	Is that irrevocable release limited to you (and/or your spouse)?	☐ Yes	☐ No
3.	Does this child have any physical or mental affliction?	☐ Yes	☐ No
4.	Are either you (or your spouse) related to this child?	☐ Yes	☐ No
5.	Is this child living with her/her parent or other family members?	☐ Yes	☐ No
	If you answered no above, is this child living in an orphanage?	☐ Yes	☐ No
6.	Have you (and your spouse) already adopted this child? *(If yes, given date and place in explanation.)*	☐ Yes	☐ No
	If you have adopted this child, did you (and your spouse) personally see the child before adoption?	☐ Yes	☐ No
7.	If you are going to adopt this child in the U.S., have any preadoption requirements of the state of proposed residence not yet been met?	☐ Yes	☐ No

Section 4. Signature of person filing petition and of any spouse.

I certify, or if outside the United States, I swear or affirm, under penalty of perjury under the laws of the United States of America, that I will adopt and care for any children admitted to the United States based on this petition. I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit sought.

Signature of person named in part 1	Date	Signature of Spouse named in Part 2	Date

Supplement B on back

Form I-130 Supplement C (11/01/91)

BILLING CODE 4410-10-C

DRAFT

OMB No. 1115–XXXX

Immigrant Petition for Alien Worker

Purpose of This Form

This form is used to petition for an immigrant based on employment.

Who May File

Any person may file this petition in behalf of an alien who:

- Has extraordinary ability in the sciences, arts, education, business, or athletics, demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field.

A U.S. Employer May File This Petition Who Wishes to Employ

- An outstanding professor or researcher, with at least 3 years of experience in teaching or research in the academic area, who is recognized internationally as outstanding,
- In a tenured or tenure-track position at a university or institution of higher education to teach in the academic area,
- In a comparable position at a university or institution of higher education to conduct research in the area, or
- In a comparable position to conduct research for a private employer who employs at least 3 persons in full-time research activities and has achieved documented accomplishments in an academic field;
- An alien who, in the 3 years preceding the filing of this petition, has been employed for at least 1 year by a firm or corporation or other legal entity and who seeks to enter the U.S. to continue to render services to the same employer or to a subsidiary or affiliate in a capacity that is managerial or executive;
- A member of the professions holding an advanced degree or an alien with exceptional ability in the sciences, arts, or business who will substantially benefit the national economy, cultural or educational interests, or welfare of the U.S.;
- A skilled worker (requiring at least 2 years of specialized training or experience in the skill) to perform labor for which qualified workers are not available in the U.S.;
- A member of the professions with a baccalaureate degree; or
- An unskilled worker to perform labor for which qualified workers are not available in the U.S.

General Filing Instructions

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A". If an answer to a question is "none," write "none". If you need extra space to answer any item, attach a sheet of paper with your name and your A#, if any, and indicate the number of the item to which the answer refers. You must file your petition with the required Initial Evidence. Your petition must be properly signed and filed with the correct fee.

Initial Evidence

If You Are Filing for an Alien of Extraordinary Ability in the Sciences, Arts, Education, Business, or Athletics, you must file your petition with:

- Evidence the alien has received a major, internationally-recognized award, or
- At least three of the following:
- Receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor,
- Membership in associations in the field which require outstanding achievements as judged by recognized international experts,
- Published material in professional or major trade publications or major media about the alien and his work in the field,
- Participation on a panel or individually as a judge of the work of others in the field or an allied field,
- Original scientific or scholarly research contributions of major significance in the field,
- Authorship of scholarly articles in the field in professional journals or other major media,
- Display of the alien's work at artistic exhibitions in more than one country,
- Evidence the alien has had lead, starring or critical roles for organizations or establishments that have distinguished reputation,
- Evidence that the alien has commanded a high salary or other high remuneration for services, or
- Evidence of commercial successes in the performing arts, as shown by box office receipts or record sales, etc.

A U.S. employer filing for an outstanding professor or researcher must file the petition with:

- Evidence of at least 2 of the following:
- Receipt of major international prizes or awards for outstanding achievement in the academic field,
- Membership in associations in the academic field, which require outstanding achievements of their members,
- Published material in professional publications written by others about the alien's work in the academic field,
- Participation on a panel, or individually, as the judge of the work of others in the same or an allied academic field,
- Original scientific or scholarly research contributions to the academic field, or
- Authorship of scholarly books or articles, in scholarly journals with international circulation, in the academic field;
- Evidence the beneficiary has at least 3 years of experience in teaching and/or research in the academic field; and
- If you are a university or other institution of higher education, a letter indicating that you intend to employ the beneficiary in a tenured or tenure-track position as a teacher or in a permanent position as a researcher in the academic field, or
- If you are a private employer, a letter indicating that you intend to employ the beneficiary in a permanent research position in the academic field, and evidence that you employ at least 3 full-time researchers and have achieved documented accomplishments in the field.

A U.S. employer filing for a multinational executive or manager must file the petition with a statement which demonstrates that:

- If the alien is outside the U.S., he/she has been employed outside the U.S. for at least 1 year in the past 3 years in a managerial or executive capacity by a firm or corporation or other legal entity, or by its affiliate or subsidiary; or
- If the alien is already in the U.S. working for the same employer, or a subsidiary or affiliate of the firm or corporation or other legal entity, by which the alien was employed overseas, he/she was employed by the entity abroad in a managerial or executive capacity for at least one year in the 3 years preceding his/her entry as a nonimmigrant;
- The prospective employer in the U.S. is the same employer or a subsidiary or affiliate of the firm or corporation or other legal entity by which the alien was employed overseas;
- The prospective U.S. employer has been doing business for at least one year; and
- The alien is to be employed in the U.S. in a managerial or executive capacity and describing the duties to be performed.

A U.S. employer filing for a member of the professions with an advanced degree or a person with exceptional

ability in the sciences, arts, or business must file the petition with:

• A labor certification (see General Evidence) and either:

• An official academic record showing that the alien has a U.S. advanced degree or an equivalent foreign degree, or an official academic record showing that the alien has a U.S. baccalaureate degree or an equivalent foreign degree and letters from current or former employers showing that the alien has at least 5 years of progressive post-baccalaureate experience in the specialty; or

• At least 3 of the following:

• An official academic record showing that the alien has a degree, diploma, certificate, or similar award from an institution of learning relating to the area of exceptional ability;

• Letters from current or former employers showing that the alien has at least 10 years of full-time experience in the occupation for which he/she is being sought;

• A license to practice the profession or certification for a particular profession or occupation;

• Evidence that the alien has commanded a salary, or other remuneration for services, which demonstrates exceptional ability;

• Evidence of membership in professional associations; or

• Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.

A U.S. employer filing for a skilled worker must file the petition with:

• A labor certification (see General Evidence); and requirement is 2 years of training or experience.

• Evidence that the alien meets the educational, training, or experience and any other requirements of the labor certification (the minimum

A U.S. employer filing for a professional must file the petition with:

• A labor certification (see GENERAL EVIDENCE);

• Evidence that the alien holds a U.S. baccalaureate degree or equivalent foreign degree; and

• Evidence that a baccalaureate degree is required for entry into the occupation.

A U.S. employer filing for its employee in Hong Kong must file its petition with a statement that demonstrates that:

• The company is owned and organized in the United States

• The employee is a resident of Hong Kong;

• The company, or its subsidiary or affiliate, is employing the person in Hong Kong, and has been employing him or her there for the past 12 months, and that such employment is, and for that period has been, as an officer or supervisor, or in a capacity that is executive, managerial or involves specialized knowledge;

• The company employs at least 100 employees in the U.S. and at least 50 employees outside the U.S. and has a gross annual income of at least $50,000,000; and

• The company intends to employ the person in the United States as an officer or supervisor, or in a capacity that is executive, managerial or involves specialized knowledge, with salary and benefits comparable to others with similar responsibilities and experience within the company. A specific job description is required for immediate immigration; a commitment to a qualifying job is required for deterred immigration.

A U.S. employer filing for an unskilled worker must file the petition with:

• A labor certification (see GENERAL EVIDENCE); and

• Evidence that the beneficiary meets any education, training, or experience requirements given on the labor certification.

General Evidence

Labor certification. Petitions for certain classifications must be filed with a certification from the Department of Labor or with documentation to establish that the alien qualifies for one of the shortage occupations in the Department of Labor's Labor Market information Pilot Program or for an occupation in Group I of the Department of Labor's Schedule A. A certification establishes that there are not sufficient workers who are able, willing, qualified, and available at the time and place where the alien is to be employed and that employment of the alien if qualified, will not adversely affect the wages and working conditions of similarly employed U.S. workers. Application for certification is made on Form ETA–750 and is filed at the local office of the State Employment Service. If the alien is in a shortage occupation, or for a Schedule A/Group I occupation, you may file a fully completed, uncertified Form ETA–750 in duplicate with your petition for determination by INS that the alien belongs to the shortage occupation.

Translations. Any foreign language document must be accompanied by a full English translation which the translator has certified complete and as correct, and by the translator's certification that he or she is competent to translate from the foreign language into English.

Copies. If these instructions state that a copy of a document may be filed with this petition, and you choose to send us the original, we may keep that original for our records.

Where To File

File this petition at the INS Service Center with jurisdiction over the place where the alien will be employed.

If the employment will be in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, the Virgin Islands, Virginia or West Virginia, mail your petition to: USINS Eastern Service Center, 75 Lower Welden Street, St. Albans, VT 05479–0001.

If the employment will be in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, or Texas, mail your petition to: USINS Southern Service Center, P.O. Box 152122, Dept. A, Irving, TX 75015–2122.

If the employment will be in Arizona, California, Guam, Hawaii, or Nevada, mail your petition to: USINS Western Service Center, P.O. Box 30040, Laguna Niguel, CA 92607–0040

If the employment will be elsewhere in the U.S., mail your petition to: USINS Northern Service Center, 100 Centennial Mail North, Room, B–26, Lincoln, NE 68508.

Fee

The fee for this petition is $140.00. The fee must be submitted in the exact amount. If cannot be refunded. Do Not Mail Cash.

All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency.

The check or money order should be made payable to the Immigration and Naturalization Service, except that:

• If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."

• If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in

payment of a fee is not honored by the bank on which it is drawn.

Processing information

Rejection. Any petition that is not signed or is not accompanied by the correct fee will be rejected with a notice that it is deficient. You may correct the deficiency and resubmit the petition. However, a petition is not considered properly filed until accepted by the Service. A priority date will not be assigned until the petition is properly filed.

Initial processing. Once the petition has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your petition.

Requests for more information or interview. We may request more information or evidence or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision. If you have established eligibility for the benefit requested, your petition will be approved. If you have not established eligibility, your petition will be denied. You will be notified in writing of the decision on your petition.

Meaning of petition approval

Approval of a petition means you have established that the person you are filing for is eligible for the requested classification. This is the first step towards permanent residence. However, this does not in itself grant permanent residence or employment authorization. You will be given information about the requirements for the person to receive an immigrant visa, or to adjust status, after your petition is approved.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 11854. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 20 minutes to learn about the law and form; (2) 15 minutes to complete the form; and (3) 25 minutes to assemble and file the petition; for a total estimated average of 60 minutes per petition. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115–XXXX, Washington, D.C. 20503

BILLING CODE 4410-10-M

U.S. Department of Justice
Immigration and Naturalization Service

DRAFT

OMB #1115 XXXX
Immigrant Petition for Alien Worker

START HERE - Please Type or Print

Part 1. Information about the person or organization filing this petition.

If an individual is filing, use the top Name line. Organizations should use the second line.

Family Name	Given Name	Middle Initial

Company or Organization

Address - Attn:

Street Number and Name | Room #

City | State or Province

Country | ZIP/Postal Code

IRS Tax # | Social Security #

Part 2. Petition Type. This petition is being filed for: (check one)

a. ☐ An alien of extraordinary ability
b. ☐ An outstanding professor or researcher
c. ☐ A multinational executive or manager
d. ☐ A member of the professions holding an advanced degree or an alien of exceptional ability
e. ☐ A skilled worker (requiring at least two years of specialized training or experience) or professional
f. ☐ An employee of a U.S. business operating in Hong Kong
g. ☐ Any other worker (requiring less than two years training or experience)

Part 3. Information about the person you are filing for.

Family Name	Given Name	Middle Initial

Address - C/O

Street # and Name | Apt. #

City | State or Province

Country | Zip or Postal Code

Date of Birth (month/day/year) | Country of Birth

Social Security # (if any) | A # (if any)

If in the U.S.	Date of Arrival (month/day/year)	I-94#
	Current Nonimmigrant Status	Expires on (month/day/year)

Part 4. Processing Information.

Below give the U.S. Consulate you want notified if this petition is approved and if any requested adjustment of status cannot be granted.

U.S Consulate: City | Country

Form I-140 (Rev. 08/13/91) DRAFT 6

Continued on back.

FOR INS USE ONLY

Returned	Receipt

Resubmitted

Reloc Sent

Reloc Rec'd

☐ Petitioner Interviewed
☐ Beneficiary Interviewed

Classification
☐ 203(b)(1)(A) Alien Of Extraordinary Ability
☐ 203(b)(1)(B) Outstanding Professor or Researcher
☐ 203(b)(1)(C) Multi-national executive or manager
☐ 203(b)(2) member of professions w/adv degree or of exceptional ability
☐ 203(b)(3) Skilled worker or professional
☐ 203(b)(4) Other worker
☐ Sec 124 IMMACT-Employee of U.S. business in Hong Kong

Priority Date	Consulate

Action Block

To Be Completed by *Attorney or Representative*, if any

☐ Fill in box if G-28 is attached to represent the applicant

VOLAG#

ATTY State License #

Part 4. Processing Information. *(continued)*

If you gave a U. S. address in Part 3, print the person's foreign address below. If his/her native alphabet does not use Roman letters, print his/her name and foreign address in the native alphabet.

Name | Address

Are you filing any other petitions or applications with this one? ☐ No ☐ yes attach an explanation
Is the person you are filing for in exclusion or deportation proceedings? ☐ No ☐ yes attach an explanation
Has a visa petition ever been filed by or in behalf of this person? ☐ No ☐ yes attach an explanation

Part 5. Additional information about the employer.

Type of petitioner (check one) ☐ Self ☐ Individual U S. Citizen

If a company, give the following: ☐ Company or organization ☐ Permanent Resident ☐ Other explain

Type of business | Date Established | Current # of employees | Gross Annual Income | Net Annual Income

If an individual, give the following: Occupation | Annual Income

Part 6. Basic information about the proposed employment.

Job Title | Nontechnical description of job

Address where the person will work if different from address in Part 1.

Is this a full-time position? ☐ yes ☐ No (hours per week _____) Wages per week

Is this position: (Check all that apply) Permanent? ☐ yes ☐ No Full-time? ☐ yes ☐ No | Is this a new position? ☐ yes ☐ No

Part 7. Information on spouse and all children of the person you are filing for.

Provide an attachment listing the family members of the person you are filing for. Be sure to include their full name, relationship, date and country of birth, and present address.

Part 8. Signature. *Read the information on penalties in the instructions before completing this section.*

I certify under penalty of perjury under the laws of the United States of America that this petition, and the evidence submitted with it, is all true and correct. I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Signature | Date

Please Note: *If you do not completely fill out this form, or fail to submit required documents listed in the instructions, you cannot be found eligible for the requested document and this application may to be denied.*

Part 9. Signature of person preparing form if other than above. *(Sign below)*

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature | Print Your Name | Date

Firm Name and Address

BILLING CODE 4410-10-C

DRAFT

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OMB No. 115–XXXX

Application to File Declaration of Intention

Purpose of This Form

This form is for a permanent resident to apply for a Declaration of Intention to become a citizen of the United States. A Declaration of Intention is not required for naturalization, but may be required by some States if you wish to engage in certain occupations or professions, or obtain various licenses.

Who May File

If you are a lawful permanent resident over the age of 18, you may apply for a Declaration of Intention. You must be in the United States when you file this application.

Initial Evidence

You must file your application with:

- A copy of your alien registration receipt card (I–151 or I–551) or other evidence that you are a permanent resident;
- Photos. You must submit 2 identical natural color photographs of yourself taken within 30 days of this application. The photos must have a white background, be unmounted, printed on thin paper and be glossy and unretouched. They should show a three-quarter frontal profile showing the right side of your face, with your right ear visible and with your head bare (unless you are wearing a headdress as required by a religious order of which you are a member). The photos should be no larger than 2×2 inches, with the distance from the top of the head to just below the chin about 1 and ¼ inches. Lightly print your A# on the back of each photo with a pencil. Sign your full name in English on the front of each photograph in pen in such a manner as to not obscure your features.

Where to File

File this application at the local Service office having jurisdiction over your place of residence.

Fee

The fee for this petition is $70.00. The fee must be submitted in the exact amount.

It cannot be refunded. Do Not Mail Cash. All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

- In you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Processing Information

Rejection. Any application that is not signed or is not accompanied by the correct fee will be rejected with a notice that the application is deficient. You may correct the deficiency and resubmit the application. However, an application is not considered properly filed until accepted by the Service.

Initial processing. Once the application has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility and we may deny your application.

Requests for more information. We may request more information or evidence, or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer needed.

Decision. You will be notified in writing of the decision on your application. If your application is approved, the Declaration of Intention will be issued.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1445. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this petition is as follows: (1) 5 minutes to learn about the law and form; (2) 5 minutes to complete the form; and (3) 35 minutes to assemble and file the petition; for a total estimated average of 45 minutes per petition. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115–XXXX, Washington, D.C. 20503.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

DRAFT

OMB #1115-XXXX
Application to File Declaration of Intention

START HERE - Please Type or Print

Part 1. Information about you.

Family Name	Given Name	Middle Initial

Address - In care of

Street Number and Name	Apt. #

City	State or Province

Country	ZIP/Postal Code

Date of Birth (Month/Day/Year)	Country of Birth

Social Security #	A #

Part 2. Processing Information.

Date you became a permanent resident (Month/Day/Year)

Since you were admitted to the United States for Permanent Residence have you been absent for a period of six months or longer? ☐ No ☐ Yes - Attach a list of departure/arrival dates of all absences

Part 3. Signature.

Read the information on penalties in the instructions before completing this section. You must be in the United States when you file this application.

I desire to declare my intention to become a citizen of the United States. I certify under penalty of perjury under the laws of the United States of America that this application, and the evidence submitted with it, is all true and correct. I authorize release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking

Signature	Date

Part 4. Signature of person preparing form if other than above. (sign below)

I declare that I prepared this application at the request of the above person and it is based on all information of which I have any knowledge.

Signature	Date

Print your Name

Firm Name

Firm Address

FOR INS USE ONLY

Returned	Receipt

Resubmitted

Reloc Sent

Reloc Rec'd

☐ Applicant Interviewed

Action Block

To Be Completed by *Attorney* or *Representative*, if any

☐ Fill in box if G-28 is attached to represent the applicant

VOLAG#

ATTY State License #

Form N-300 (Rev. 08/21/91) DRAFT 4

Continued on next page.

DRAFT

DRAFT

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-XXXX

Application to File Declaration of Intention

Original to be retained by the Service -

Duplicate to be given to :

Family Name	Given Name	Middle Initial

Address - C/O

Street Number and Name	Apt. #
City	State or Province
Country	ZIP/Postal Code
Date of Birth (Month/Day/Year)	Country of Birth
Social Security #	A #

Affix Photograph Here

Not valid unless INS Seal applied below

I am over the age of 18 years, have been lawfully admitted to the United States for permanent residence and am now residing in the United States pursuant to such admission.

I hereby declare my intention in good faith to become a citizen of the United States and I certify that the photographs affixed to the original and duplicate hereof are a likeness of me and were signed by me.

I do swear (affirm) that the statements I have made and the intentions I have expressed in this declaration of intention subscribed by me are true to the best of my knowledge and belief.

Signature of Applicant

Signature of Authorizing official

DRAFT

FORM N-300 (Rev 08/21/91) Draft 4

BILLING CODE 4410-10-C

Part 5. Signature of Person Preparing Form if Other Than Above. *(Sign Below)*

I declare that I prepared this application at the request of the above person and it is based on information of which I have knowledge.

Signature _____
Print Your Name _____
Date _____
Firm Name and address _____

Purpose Of This Form

This form is used to request further action on a previously approved petition or application.

Who May File

If you file an application or petition which has been approved, use this form during the validity of the approved application or petition to:

- Request a duplicate approval notice;
- Request that another consulate be notified of the approval of the petition; or
- Request that a U.S. Consulate be notified that your status has been adjusted to permanent resident, so your spouse and children can apply for immigrant visas.

In all cases please submit a copy of the original approval notice if you have it. It will speed processing.

General Filing Instructions

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A". If an answer is "none," write "none". If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), if any, and indicate the number of the item to which the answer refers. Your application must be properly signed and filed with the correct fee. If you are under 14 years of age, your parent or guardian may sign the application.

Where To File

File this application with the office which approved the original application or petition.

Fee

The fee for this application is $30.00. The fee must be submitted in the exact amount. It cannot be refunded. DO NOT MAIL CASH.

All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

- If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Processing Information

Rejection. Any application that is not signed or is not accompanied by the correct fee will be rejected with a notice that the application is deficient. You may correct the deficiency and resubmit the application. However, an application is not considered properly filed until accepted by the Service.

Initial processing. Once the application has been accepted, it will be checked for completeness. If you do not completely fill out the form, you will not establish a basis for eligibility, and we may deny your application.

Requests for more information or interview. We may request more information or evidence or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision. You will be notified of the decision on your application.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1103. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 5 minutes to learn about the law and form; (2) 5 minutes to complete the form; and (3) 15 minutes to assemble and file the application; for a total estimated average of 25 minutes per application. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115–XXXX, Washington, D.C. 20503.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

DRAFT

OMB #1115-XXXX
Application for Action on an Approved Application or Petition

START HERE - Please Type or Print (Instructions on back)

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
☐ Applicant Interviewed	

☐ Duplicate Notice Sent
☐ American Consulate Notified at (Location): _____
☐ Application Denied

Action Block

Part 1. Information about the person that filed the original application or petition. (Individuals should use the top name line; Organizations should use the second line)

Family Name	Given Name	Middle Initial
Company or Organization Name		
Address - Attn:		
Street Number and Name		Apt. #
City	State or Province	
Country	ZIP/Postal Code	
Date of Birth (Month/Day/Year)	Country of Birth	
Social Security #	IRS Tax #	A #

Part 2. Application Type (check one).

a. ☐ I am applying for a duplicate approval notice

b. ☐ I am requesting that a new U.S. Consulate be notified of the previous approval of a petition.

c. ☐ I am requesting that a U. S. Consulate be notified that my status has been adjusted to permanent resident.

Part 3. Processing Information.

Type of Petition/ Application (Form #)	Filing Receipt #
Date of Filing (Month/Day/Year)	Date Approved (Month/Day/Year)

If Petition: filed for

Family Name	Given Name	Middle Initial
Date of Birth (Month/Day/Year)	Country of Birth	
A#		

If you checked "b" or "c" in Part 2, indicate below which U.S Consulate or Port of Entry (POE) you want us to notify. _____

To Be Completed by *Attorney or Representative*, if any
☐ Fill in box if G-28 is attached to represent the applicant
VOLAG#
ATTY State License #

Part 4. Signature

Read the information on penalties in the instructions before completing this section.

I certify under penalty of perjury under the laws of the United Status of America that this application, and the evidence submitted with it, is all true and correct. I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Signature	Print Your Name	Date

Form I-824 (8/20/91) Draft 5

DRAFT

Continued on back.

[FR Doc. 91-23657 Filed 10-3-91; 8:45 am]
BILLING CODE 4410-10-C

DEPARTMENT OF LABOR

Employment Standards Administration Wages and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (45 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, DC 20210.

Corrections to General Wage Determination Decisions

Pursuant to the provisions of the Regulations set forth in title 29 of the Code of Federal Regulations, part 1, § 1.6(d), the Administrator of the Wage and Hour Division may correct any wage determination that contains clerical errors.

Corrections being issued in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are indicated by Volume and are included immediately following the transmittal sheet(s) for the appropriate Volume(s).

Volume II

Wage Decision No. MN90–7, Modification Nos. 1 through 4.
Wage Decision No. MN91–7, through Modification No. 2.

Pursuant to the Regulations, 29 CFR part 1, § 1.6(d), such corrections shall be included in any bid specifications containing the wage determinations, or in any on-going contracts containing the wage determinations in question, retroactively to the start of construction.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page numbers.

Volume I

Tennessee:
TN91–18 (Oct. 4, 1991).. p. ALL.
TN91–19 (Oct. 4, 1991).. p. 1232e, p. 1232f.
TN91–20 (Oct. 4, 1991).. p. 1232g, p. 1232h.
TN91–21 (Oct. 4, 1991).. p. 1232i, p. 1232j.
TN91–22 (Oct. 4, 1991).. p. 1232k, p. 1232l.
TN91–23 (Oct. 4, 1991).. p. 1232m, pp. 1232n–1232p.
TN91–24 (Oct. 4, 1991).. p. 1232q, p. 1232r.
West Virginia, WV91–7 (Oct. 4, 1991). p. 1465, p. 1466.

Volume II

Texas:
TX91–33 (Oct. 4, 1991).. p. ALL.
TX91–34 (Oct. 4, 1991).. p. ALL.
TX91–35 (Oct. 4, 1991).. p. ALL.
TX91–37 (Oct. 4, 1991).. p. ALL.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Kentucky, KY91–25 (Feb. 22, 1991). p. 383, p. 384.
Massachusetts:
MA91–1 (Feb. 22, 1991). p. 421, pp. 422–423, pp. 425–426.
MA91–2 (Feb. 22, 1991). p. 439, pp. 440–442.
MA91–3 (Feb. 22, 1991). p. 453, pp. 454–458.
New Jersey, NJ91–2 (Feb. 22, 1991). p. 701, p. 703.
Pennsylvania, PA91–5 (Feb. 22, 1991). p. 995, p. 996.
Rhode Island, RI91–1 (Feb. 22, 1991). p. 1149, p. 1150.
Tennessee:
TN91–13 (Feb. 22, 1991). p. 1219.
TN91–14 (Feb. 22, 1991). p. 1221.
TN91–17 (Feb. 22, 1991). p. ALL.

Volume II

Arkansas AR91–3 (Feb. 22, 1991). p. 9, p. 10.
Illinois IL91–7 (Feb. 22, 1991). p. 137, p. 138.
Kansas KS91–8 (Feb. 22, 1991). p. 373, pp. 374–375.
Missouri MO91–2 (Feb. 22, 1991). p. 673, pp. 676–677.

Volume III

Alaska AK91–1 (Feb. 22, 1991).	p. ALL.
Colorado:	
CO91–1 (Feb. 22, 1991).	p. 151, p. 152.
CO91–2 (Feb. 22, 1991).	p. 159, p. 160.
CO91–5 (Feb. 22, 1991).	p. 175, pp. 176–177.
CO91–6 (Feb. 22, 1991).	p. 179, pp. 180–181.
Idaho:	
ID91–1 (Feb. 22, 1991)...	p. 207, p. 210.
ID91–5 (Feb. 22, 1991)...	p. 229, p. 230.
Montana, MT91–1 (Feb. 22, 1991).	p. 231, pp. 232–233.
Nevada, NV91–4 (Feb. 22, 1991).	p. 335, pp. 336–344.
Oregon, OR91–1 (Feb. 22, 1991).	p. 371, p. 373.
Utah UT91–3 (Feb. 22, 1991).	p. 409, pp. 410–418b.
Washington:	
WA91–2 (Feb. 22, 1991).	p. 477, pp. 479–480.
WA91–3 (Feb. 22, 1991).	p. 487, pp. 488, 490.
WA91–7 (Feb. 22, 1991).	p. 501, pp. 502, 503.
WA91–8 (Feb. 22, 1991).	p. 507, p. 508.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 27th day of September 1991.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 91–23702 Filed 10–3–91; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biochemistry; Meeting

The National Science Foundation announces the following meeting.

Name: Advisory Panel for Biochemistry.

Date: Monday, Tuesday and Wednesday, October 21, 22, and 23, 1991, 9 a.m. to 5 p.m.

Place: The Historic Inns of Annapolis, 16 Church Circle, Annapolis, MD 21401.

Type of Meeting: Closed.

Contact Person: Dr. Marcia Steinberg, Program Director, Dr. Todd Martensen, Program Director, Biochemistry Program, rm 325, Telephone (202) 357–7945.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for Biochemistry research proposals.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

Dated: September 30, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91–23893 Filed 10–3–91; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Biophysics; Meeting

The National Science Foundation announces the following meeting.

Name: Advisory Panel for Biophysics.

Date and Time: October 21, 22 and 23, 1991 from 8 a.m. to 6 p.m. each day.

Place: National Science Foundation, 1800 'G' Street, NW., room 1242, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Arthur Kowalsky, Program Director, or Dr. Kamal Shukla, Associate Program Director, Biophysics Program, room 325, Phone: (202) 357–7777.

Purpose of Meeting: To provide advice and recommendations concerning support for research in Biophysics.

Agenda: To review and evaluate research proposals as part of the selection process for award.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552B (c), Government in the Sunshine Act.

Dated: September 30, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91–23894 Filed 10–3–91; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Cell Biology Meeting

The National Science Foundation announces the following meeting.

Name: Advisory Panel for Cell Biology.

Date and Time: October 20–23, 1991, 8:30 a.m. to 6 p.m.

Place: St. James Hotel, 950 24th Street, NW., Washington, DC 20037.

Type of Meeting:Part Open—Closed: October 20, 21, 23, 1991, 8:30 a.m. to 6 p.m. *Open:* October 22, 1991, 12 p.m. to 1:30 p.m.

Contact Person: Dr. Eve Ida Barak, Acting Program Director, Cell Biology Program, room 321, National Science Foundation, Washington, DC 20550, *Telephone:* 202/357–7474.

Purpose of Advisory Panel: To provide advice and recommendation concerning support for research in Cell Biology.

Agenda: Open—General discussion of the current status and future plans of the Cell Biology Program.

Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are with exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Dated: September 30, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91–23890 Filed 10–3–91; 8:45 am]

BILLING CODE 7555–01–M

DOE/NSF Nuclear Science Advisory Committee Meeting

The National Science Foundation announces the following meeting.

Name: DOE/NSF Nuclear Science Advisory Committee.

Date and Time: October 23, 1991 from 4 p.m. to 8 p.m.

Place: Kellogg Center, Centennial room, Michigan State University, Harrison Road at Michigan Ave., East Lansing, Michigan 48824.

Type of Meeting: Open.

Contact Person: John W. Lightbody, Program Director for Nuclear Physics, National Science Foundation, Washington, DC 20550, (202) 357–7993.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To advise the National Science Foundation and the Department of Energy on scientific priorities within the field of basic nuclear science research.

Agenda:

- Status of Programs—DOE and NSF Representatives
- Status Report—Subcommittee on Nuclear Data Needs
- Status Report—Nuclear Theory Center
- Discussion of the Availability of Separated Isotope Target Material
- Public Comment.

Dated: September 30, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91–23891 Filed 10–3–91; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Genetics; Meeting

The National Science Foundation announces the following meeting.

Name: Advisory Panel for Genetics—Group B.

Date and Time: Thursday, Friday, and Saturday, October 24–26, 1991, 8:30 to 5 p.m.

Place: The National Science Foundation, 1800 G St., NW., room 1243.

Type meeting: Closed.

Contact Person: DeLill Nasser, Program Director, Genetic Biology, room 325–J, Telephone: (202) 357–0112.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of proposals U.S.C. 552b(c), Government in the Sunshine Act.

Dated: September 30, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91–23895 Filed 10–3–91; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Genetics; Meeting

The National Science Foundation announces the following meeting.

Name: Advisory Panel for Genetics—Group A.

Date: Thursday, Friday, and Saturday, October 24, 25, and 26, 1991.

Time: 8:30 a.m. to 5 p.m.

Place: The National Science Foundation, 1800 G. St., NW., room 1242.

Type Meeting: Closed.

Contact Person: Philip Harriman, Program Director, Prokaryotic Genetics, Room 325–H Telephone: (202) 357–9687.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in Sunshine Act.

Dated September 30, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91–23896 Filed 10–3–91; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Teacher Preparation and Enhancement Meeting

The National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Teacher Preparation and Enhancement.

Times: 24 October—7:30 p.m.—Moderator's Meeting, 25 October —8 a.m. to 6 p.m.—Panel, 26 October —8 a.m. to 2 p.m.—Panel.

Place: Holiday Inn The Governor's House, 17th Street at Rhode Island Avenue, NW, Washington, DC 20036.

Meeting Room: Cabinet Room.

Type of Meeting: Closed.

Contact Person: Dr. Donald Douglas, Private Sector Partnerships Program, Networking and Teacher Preparation Section, Division of Teacher Preparation and Enhancement, Directorate for Education and Human Resources, National Science Foundation, room 504, Washington, DC 20550, (202) 357–7751.

Agenda: Review and evaluate Private Sector Partnerships Proposals.

Reason For Closing: The proposals being reviewed include information a proprietary of confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Dated: September 30, 1991.

M. Rebecca Winkler,

Commitment Management Officer.

[FR Doc. 91–23892 Filed 10–3–91; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advanced Light Water Reactor Conference

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The objectives of the conference are to: (1) Inform the industry and the public of NRC's process for performing design certification reviews, (2) address the technical safety issues concerning advanced reactors, and (3) provides a forum for discussing NRC's overall approach to design certification.

Topics to be discussed will be limited to allow sufficient time to focus on key issues of interest both to the NRC and the industry. Participants can thus focus on differences in perspective on specific issues and can communicate ideas that may be used to resolve technical issues in the future.

DATES: The conference will be held November 4 and 5, 1991.

ADDRESS: The conference will be held at the Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC 20036, Telephone (202) 347–3000.

FOR FURTHER INFORMATION CONTACT: Joseph Giitter, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Telephone (301) 492–1113.

SUPPLEMENTARY INFORMATION:

Registration

All participants are required to register no later than October 31, 1991. Registration may be made by calling Kevin Bohrer, Telephone (301) 492–1293.

Participation

This conference is open to the general public; however, advance registration is required.

The following is the preliminary program for the conference:

Time and agenda	Name
November 4, 1991:	
8:30—Introduction	James Taylor, NRC.
8:35—Welcome	Ivan Selin, NRC Chairman.
8:45—Licensing Process Issues Concerning Design Certification and Combined Operating License.	Thomas Murley, NRC.
9:45—Technical Safety Issues Concerning Advanced Light Water Reactors.	William Russell, NRC.
10:45—Break	
11:00—Industry Views on Certification Issues.	Nuclear Management and Resources Council (NUMARC).
12:00—Lunch	
1:30—EPRI Requirements Document.	NRC/Electric Power Research Institute (EPRI).
3:00—Break	
3:15—Advanced Boiling Water Reactor Status and Issues.	NRC/General Electric (GE).

Time and agenda	Name
4:45—Adjourn	
November 5, 1991:	
8:30—System 80+ Status and Issues.	NRC/ASEA Brown Baveri/ Combustion Engineering (ABB/CE).
10:00—Break	
10:15—Advanced Plant-600 Status and Issues	NRC/ Westinghouse (W).
11:45—Lunch	
1:30—Small Boiling Water Reactor Status and Issues.	NRC/GE.
3:00—Closing Panel	James Taylor, NRC, Thomas Murley, NRC, NRC Staff, NUMARC.
4:30—Adjourn	

Dated in Rockville, Maryland, this 1st day of October 1991.

For the Nuclear Regulatory Commission.

John T. Larkins,

Chief, Planning, Program, and Management Support Branch, Office of Nuclear Reactor Regulation.

[FR Doc. 91–24111 Filed 10–3–91; 8:45 am]

BILLING CODE 7590–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in Palm Springs, California: Bus Accident

The National Transportation Safety Board will convene a public hearing at 9 a.m. (local time), on Thursday, October 31, 1991, in the International Ballroom B of the Los Angeles Airport Hilton Hotel, 5711 W. Century Boulevard, Los Angeles, California 90045, in connection with its investigation of the Charter Bus Run-Off-Roadway and Overturn which occurred near Palm Springs, California, on July 31, 1991. For further information contact Ted Lopatkiewicz, Office of Public Affairs, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, DC 20594, telephone (202) 382–0660.

Dated: September 26, 1991.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 91–23944 Filed 10–3–91; 8:45 am]

BILLING CODE 7533–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Power Plan Amendments; Columbia River Basin Fish and Wildlife Program

September 26, 1991.

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of proposed amendments to the Columbia River Basin Fish and Wildlife Program (measures for anadromous fish).

SUMMARY: Pursuant to the Pacific Electric Power Planning and Conservation Act (the Northwest Power Act, 16 U.S.C. 839, *et seq.*) the Pacific Northwest Electric Power and Conservation Planning Council (Council) has proposed amendments to the Columbia River Basin Fish and Wildlife Program (program). The amendments propose major changes to the salmon and steelhead provisions of the program, emphasizing mainstream passage, harvest, and a process to develop analytical tools and a framework for program planning, implementation, monitoring and research. More limited changes are proposed for the salmon and steelhead habitat and production provisions of the program. Copies of the proposed amendments are now available, and comments are solicited.

Background

The Council is in the second phase of a four-part process to consider amendments to the Columbia River Basin Fish and Wildlife Program (program). Phase one, in which priority habitat and production amendments were adopted, is completed. Phase two addresses the issues discussed above. Phase three will address major production and habitat issues, system planning (including the establishment of a framework for program planning, implementation, monitoring, evaluation, and research), and related issues. Phase four, to address resident fish and wildlife, would begin in September, 1992.

The second phase of the process began on August 9, 1991, when the Council received recommendations from fish and wildlife agencies, Indian tribes, and others, for measures to protect, mitigate and enhance anadromous fish affected by the development and operation of hydroelectric facilities in the Columbia River Basin. On September 26, based on its review of the recommendations and comments received on them, the Council proposed a series of amendments to the program, to be circulated for public comment.

Opportunity for Comment

The Council will receive written comment on the proposed amendments, or on any of the recommendations submitted on August 9, through 5 p.m. Pacific time, October 25, 1991. Comments, clearly marked "Salmon Amendment Comments," should be submitted to the Council's Public Affairs Division, 851 SW. Sixth Avenue, suite 1100, Portland, Oregon 97204. After the close of comment, the Council may initiate consultations to clarify comments that have been submitted.

Hearings

Hearings will be held on the proposed amendments, or on recommendations submitted on August 9, as follows:

—October 15, 1991, at 1 p.m. and 6:30 p.m. at Cavanaugh's at Columbia Center in Kennewick, Washington;

—October 15, from 2 to 5 p.m. and 7 to 9 p.m. at the Owyhee Plaze in Boise, Idaho;

—October 17, from 6:30 to 10 p.m. at the Ramada Inn in Lewiston, Idaho;

—October 21, from 4 to 7 p.m. at Cavanaugh's in Kalispell, Montana;

—October 21 from 1 to 6:30 p.m. at the Monticello Hotel in Longview, Washington;

—October 23, from 9 a.m. to 9 p.m. at the Council's central offices in Portland, Oregon.

Please contact the Council's Public Affairs Division to reserve a time to testify. Witnesses should be prepared to summarize briefly, rather than read, any written statement they wish to enter into the record.

FOR FURTHER INFORMATION CONTACT: For copies of the proposed amendments (request document no. 91–25), contact the Council's Public Affairs Division, 851 SW. Sixth Avenue, suite 1100, Portland, Oregon 97204 or (503) 222–5161, toll free 1–800–222–3355.

Edward W. Sheets,

Executive Director.

[FR Doc. 91–23871 Filed 10–3–91; 8:45 am]

BILLING CODE 0000–00–M

PANAMA CANAL COMMISSION

Agency Information Collection Request Submitted to the Office of Management and Budget for Clearance

AGENCY: Panama Canal Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), as amended, the Panama Canal Commission hereby gives notice that it has submitted to the Office of Management and Budget for clearance a SF–83 (Request for OMB Review) for a currently approved collection of information contained in subchapter C (Shipping and Navigation) of chapter I, title 35, Code of Federal Regulations (CFR).

ADDRESSES: Comments may be sent to Edward H. Clarke, Desk Officer for Panama Canal Commission, Office of Information and Regulatory Affairs, room 3228, New Executive Office Building, Office of Management and Budget, Washington, DC 20507.

FOR FURTHER INFORMATION CONTACT: For a complete copy of the collection of information or related information, contact Barbara Fuller, Office of the Secretary, Panama Canal Commission, telephone 202–634–6441.

SUPPLEMENTARY INFORMATION:

Title: Subchapter C (Shipping and Navigation) of chapter I, 35 CFR.

Type of Request: Revision of a currently approved collection.

Form Number(s): Various.

Needs and Uses: On December 24, 1981, OMB approved an information collection proposal submitted by the Panama Canal Commission in conjunction with a revision of its navigation regulations (35 CFR chapter I, subchapter C), and assigned it the control number 3207–0001. The forms required by those regulations, which make up the collection of information are used to collect, from vessels arriving in the Panama Canal waters, information required for assuring that the vessels are in compliance with Panama Canal Commission shipping and navigation regulations. The information collected will be used for economic analyses, traffic forecasting, identification, billing, safety and sanitation purposes. It is estimated that the burden (which varies widely, depending upon the nature of each vessel's operations) for cargo vessels ranges from five minutes to four hours per response. The burden will be lessened for those vessels having the capability of producing computer generated cargo declarations. For passenger vessels, the range would be from approximately two hours to thirteen hours. The utilization of computer generated crew and passenger lists should reduce by eight to ten hours the time required of a vessel like the Queen Elizabeth 2. (the smallest "passenger" vessels carry about 13 passengers and the largest, the QUEEN ELIZABETH 2, is capable of accommodating about 1,879). It would be very difficult to provide a meaningful estimate of the total burden for each vessel since some transit frequently, while others may transit only once or infrequently.

Affected Public: Businesses or other for profit.

Burden: 27,966 hours.

Average Hours Per Response: 2.

Frequency: On occasion.

Number of Respondents: 13,983.

Dated: October 1, 1991.

Joseph J. Wood,

Director, Office of Executive Administration, Senior Official for Information Resources Management.

[FR Doc. 91–23962 Filed 10–3–91; 8:45 am]

BILLING CODE 3640–01–M

POSTAL RATE COMMISSION

[Order No. 906; Docket No. MC91–3]

Second-Class Pallet Discount; Notice and Order on Filing of Postal Service Proposal to Establish Pallet Discount For Second-Class Mail

Before Commissioners: George W. Haley, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; W.H. "Trey" LeBlanc, III; Patti Birge Tyson

October 1, 1991.

Notice is given that on September 25, 1991, the U.S. Postal Service, pursuant to chapter 36 of title 39 of the U.S. Code, filed a request with the Postal Rate Commission for a recommended decision on establishment of a classification and rate discounts for palletized second-class mail. The Service's request was accompanied by the direct testimony and supporting exhibits of witnesses Bradley, Mitchell and Acheson; a notice concerning library references [1] and discovery; and a compliance statement detailing the manner in which the Service has met the standards of the Commission's rules of practice. The Service proposes a Fiscal Year 1992 test year for reasons related to the Docket No. R90–1 test year, expected ease of implementation, consistency with the chosen cost avoidance methodology, and the desire for expedition of this proceeding.

Proposed Discounts

The Postal Service proposes a pallet discount for all second-class mail, except the in-county mail category. The Service's request notes that the proposed rates are designed to achieve the same revenue as expected from the recently established rates resulting from the Commission's recommendations and Governors' actions in Docket No. R90–1. It also notes that certain second-class basic rates have been adjusted upward to account for the revenue leakage as a result of the discount. Postal Service Request at 1–2. See also USPS–T–3 at 23.

As shown below, the discounts are on the basic pound rate for non-palletized mail, with the level depending on the zone.

Zone	Discount	Regular rate (in cents per pound)	Nonprofit/ Classroom
DDU		16.6	11.6
SCF	0.3	17.6	12.2
1&2	1.5	19.9	14.5
3	2.0	21.1	15.9
4	2.8	23.3	18.6
5	3.2	26.7	22.7
6	3.6	30.3	27.0
7	4.0	34.6	32.1
8	4.4	38.3	36.6
Editorial	1.5	14.9	10.9

USPS–T–3 at 23–24.

Associated percentage increases or decreases in postage for a variety of mailpieces are found in Exhibit USPS–3A of the Postal Service's filing. The testimony of Postal Service witness Mitchell indicates that except for cells with limited volume, such as zone 8, the rate changes are in the range of a few percentage points. USPS–T–3 at 24–25.

Intervention

Any person interested in participating as a party in this proceeding should file a notice of intervention with the Secretary of the Commission on or before October 25, 1991, setting forth the nature of the person's interest in the issues. Persons seeking status as limited participants should file a written notice of intervention as a limited participant on or before October 25, 1991. Those wishing to express their views informally, without seeking party or limited participant status, may file comments at any time. Commission rules pertaining to intervention and the filing of informal comments appear at 39 CFR 3001.20, 20a and 20b.

Officer of the Commission (OOC)

Stephen A. Gold, Director of the Commission's Office of the Consumer Advocate, is appointed to represent the

[1] The library references consist of a Second-Class Mail Publication Study and diskettes for the workpapers of witnesses Bradley and Mitchell.

interests of the general public in this proceeding. In this capacity, he will direct the activities of Commission personnel assigned to assist him and, at an appropriate time, supply their names for the record. Neither Mr. Gold nor the assigned personnel will participate in or advise as to any Commission decision. The OOC shall be separately served with three copies of all filings, in addition to and at the same time as service on the Commission of the 25 copies required by 10(c) of the Commission's rules of practice [39 CFR § 3001.10(c)].

The Commission orders:

(A) Notices of intervention in this proceeding shall be sent to Charles L. Clapp, Secretary, Postal Rate Commission, 1333 H Street, NW., suite 300, Washington, DC 20268–0001 on or before October 25, 1991.

(B) Stephen A. Gold is appointed Officer of the Commission to represent the interests of the general public in this proceeding. Service of documents on the OOC shall be in accordance with the provisions set forth in the body of this Notice and Order.

(C) The Secretary shall cause this Notice and Order to be published in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 91–23951 Filed 10–3–91; 8:45 am]

BILLING CODE 7710-FW-M

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142.

Upon written request copies available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002.

New, Rule 17Ad–15, File No. 270–360

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*), the Securities and Exchange Commission has submitted for clearance under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et. seq.*) proposed Rule 17Ad–15 (17 CFR 240.17Ad–15), which would require registered transfer agents to maintain records of rejected transfers of securities, and the reasons for rejection. It is estimated that approximately 800 transfer agents would incur an average burden of 40 hours annually to comply with the proposed rules.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 20, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–23880 Filed 10–3–91; 8:45 am]

BILLING CODE 8010-01-M

Requests Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142

Upon written request copies available from: Security and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002.

New, Rule 17h–1T and Rule 17h–2T, File No. 270–359

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*), the Securities and Exchange Commission has submitted for clearance under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et. seq.*) proposed Rules 17h–1T (17 CFR 240.17h–1T) and 17h–2T (17 CFR 240.17h–2T), which would require registered brokers and dealers to maintain, preserve, and file information concerning certain of their associated persons. It is estimated that approximately 250 broker-dealers would incur an average burden of 14 hours annually to comply with the proposed rules.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 4, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–23881 Filed 10–3–91; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearing Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, 450 Fifth Street, NW., Washington, DC 20549.

Extension

Rule 2a19–1, File No. 270–294

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 2a19–1 under the Investment Company Act of 1940 ("Act") (17 CFR 270.2a19–1).

Rule 2a19–1 provides that investment company directors will not be considered interested persons, as defined by section 2(a)(19) of the Act, solely because they are registered broker-dealers or affiliated persons of registered broker-dealers, if the conditions of the rule are met. Approximately 2944 respondents spend about one hour each, annually, compiling and keeping records related to the requirements of the rule.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of the SEC rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–6004, and Gary Waxman, Clearance Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, (Paperwork Reduction Project 3235–0332), room 3208 NEOB, Washington, DC 20503.

Dated: August 30, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–23882 Filed 10–3–91; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearing Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Filings, Information, and Consumer Services, 450 Fifth Street, NW., Washington, DC 20549.

Extension

Rule 17f–2, File No. 270–233

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17f–2 under the Investment Company Act of 1940 (17 CFR 270.17f–2).

Rule 17f–2 sets standards to be followed and requirements to be met by registered management companies that maintain in their own custody their portfolio securities. Approximately 50 respondents utilize the rule annually, necessitating about 3 responses each per year, for a total of 150 responses. Each response requires about 4.5 hours, for a total of 675 hours; each respondent spends two additional hours annually keeping records relating to requirements of the rule, for a total of 775 burden hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and Gary Waxman, Clearance Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (Paperwork Reduction Project 3235–0269), room 3208 NEOB, Washington, DC 20503.

Dated: August 30, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–23883 Filed 10–3–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–29752; File No. SR–Amex–91–16]

Self-Regulatory Organizations; American Stock Exchange; Order Approving Proposed Rule Change Relating to the Reduction or Waiver of Listing Fees Under Certain Circumstances

September 27, 1991.

On July 18, 1991, the American Stock Exchange ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt section 146 to the Amex Company Guide to allow the Exchange, in its discretion, to reduce or waive the amount of original, annual, and/or additional listing fees under certain limited circumstances to accommodate unique situations.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 29544 (August 9, 1991), 56 FR 40927 (August 16, 1991). No comments were received on the proposal.

Under the Amex's current fee structure, after an issuer is approved for listing on the Exchange, a listing fee is assessed on that issuer based upon the total number of shares to be listed. Thereafter, annual fees are imposed on the issuer based upon the number of shares outstanding, and additional listing fees are assessed for listing additional shares of an existing issue. Generally, the Exchange has no flexibility to reduce or waive listing fees.

The Amex proposes to amend the Company Guide to add a new Section 146 authorizing the Exchange to reduce or waive listing fees in certain situations where such a reduction or waiver of fees is deemed appropriate to achieve an equitable result. In its filing, the Amex states that, while an increase in the number of non-traditional equity issues, such as closed-end mutual funds, has created new listing opportunities, the rigidity of the Exchange's fee structure has, in certain circumstances, prevented the Exchange from capitalizing fully on this growth. As an example, the Exchange cites the potential listing of a series of related mutual funds or unit investment trusts ("UITs") marketed by a single sponsor. The Amex's current fee structure would require the Exchange to treat the listing of the multiple funds of the single sponsor as individual listings, and would require the Exchange to charge the full original listing fee for each. Under the new proposal, the Amex would have the flexibility to reduce or waive the listing fees for the single sponsor.

The Amex filing also presents additional situations where a reduction or waiver of the Exchange's listing fees would be reasonable, such as: the spinoff of various operations by a listed company into a series of separate enterprises (each to be owned initially by the same shareholders) or the relisting of a company that has been restructured within a short period of time after delisting.

Finally, the Amex would consider the reduction or waiver of its listing fees on a case-by-case basis only. The Exchange states in its filing that the proposed rule change is intended only to provide the Amex with the flexibility to reduce or waive listing fees in certain limited circumstances. It is not intended as a means for the Exchange to negotiate on a routine basis with potential issuers regarding listing fees. The Exchange emphasizes that financial hardship alone would not be a justification for the reduction or waiver of listing fees for a potential or currently-listed issuer.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[4] In particular, the Commission believes the proposal is consistent with the section 6(b)(4) requirement that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using the Exchange's facilities.[5] In addition, the Commission believes the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade and not be designed to permit unfair

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1990).

[3] In the original filing, the Exchange proposed to allow the Exchange, in its discretion, to adjust the amount of original, annual, and/or additional listing fees under certain limited circumstances to accommodate unique situations. The Exchange later amended the filing to allow the Exchange, in its discretion, to reduce or waive the amount of original, annual, and/or additional listing fees under certain limited circumstances to accommodate unique situations. See Amendment No. 1 to File No. SR–Amex–91–16.

[4] 15 U.S.C. 78f (1988).

[5] 15 U.S.C. 78f(b)(4) (1988).

discrimination between customers, issuers, brokers or dealers.[6]

In this regard, the Commission believes that the Amex proposal would allow the Exchange flexibility to reduce or waive listing fees in certain situations when the Exchange determines that such a waiver or reduction in fees is justified. The Commission agrees with the Amex that there are certain situations in which granting a waiver or reduction in listing fees is justified. For example, the Commission believes that the situations described by the Amex in its filing, such as the potential listing of a series of related mutual funds or UITs marketed by a single sponsor, the spinoff of various operations by a listed company into a series of separate enterprises each to be owned initially by the shareholders, or the relisting of a company that has been restructured within a short period of time after delisting, present special circumstances under which the Amex would be justified in waiving or reducing payment of Exchange listing fees. These situations differ from the listing of a traditional equity issue because, for example, in the case of a single sponsor listing a series of related mutual funds or UITs, the issuer would be the same and the securities issues all would have similar characteristics. Similarly, in the case of the spinoff or reorganization of various operations by a listed company into a series of separate enterprises each to be owned initially by the shareholders, because the Exchange already has a relationship with the predecessor entity, the listing of the successor entity would not present the Exchange with the potential listing of a completely new issuer. The Commission believes that allowing the Exchange the flexibility to reduce or waive listing fees in these types of situations should help the Amex attract additional issues to its market, as well as provide an incentive for current Exchange issuers to list their new issues on the Amex.

The Commission emphasizes, however, that, under the proposal, the Amex's ability to waiver or reduce listing fees would be limited to certain situations where such a waiver or reduction in fees would be justified, such as in situations similar to those discussed above. These cases where a waiver or reduction in fees would be granted to potential or current issuers would be determined by the Exchange on a case-by-case basis. Finally, the Commission notes that the Amex proposal is substantially similar to a recent revision by the National Association of Securities Dealers, Inc. ("NASD") to its listing fee schedule for NASDAQ companies which permits both original and annual fees to be reduced or waived on a case-by-case basis.[7]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-23945 Filed 10-3-91; 8:45 am]

BILLING CODE 8010-01-M

[6] 15 U.S.C. 78f(b)(5) (1988).

[7] See Part IV of Schedule D of the NASD By-Laws which provides that the NASD's Board of Governors may waive all or any part of the entry and annual fees for both National Market System ("NMS") and regular NASDAQ applicants. See also Securities Exchange Act Release No. 28731 (January 2, 1991), 56 FR 906 (approving File No. SR-NASD-90-61).

[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 CFR 200.30-3(a)(12) (1990).

[Release No. 34-29748; File No. SR-CBOE-91-30]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to a Memorandum of Understanding With the North American Securities Administrators Association, Inc.

September 27, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 9, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE is filing with the Commission a copy of a Memorandum of Understanding ("MOU") executed between the North American Securities Administrators Association, Inc. ("NASAA") and the CBOE relating to Exchange listing standards for common stock.[1]

[1] The MOU was attached to the rule filing as Exhibit A and is available at the CBOE and the Commission at the address noted in Item IV below.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On October 19, 1990, the Commission approved File No. SR-CBOE-90-8 establishing chapters XXX and XXXI of the Exchange Constitution and Rules, which govern the listing and trading of stocks, bonds and debentures, warrants (including currency and index warrants), and other securities instruments on the Exchange.[2] In connection with this authorization to trade other securities products in addition to standardized options, and in an effort to achieve a level playing field with other registered national securities exchanges, the Exchange seeks certification as a recognized exchange under the "exchange listing exemption" in the states that accord such recognition and do not currently recognize the CBOE. With such recognition, all securities listed or approved for listing on the CBOE would be exempt from registration requirements in the individual relevant states.

Responding to the CBOE's solicitation for recognition, the NASAA appointed an Ad Hoc Marketplace Exemption Committee ("NASAA Committee") to review the Rules and operations of the CBOE and make a recommendation on CBOE's request to the NASAA membership. In March 1991, the NASAA Committee issued a report recommending that the states accord the CBOE a marketplace exemption and that NASAA execute a MOU with the CBOE. The MOU, which is substantially identical to the Memorandum of Understanding between the National Association of Securities Dealers, Inc. ("NASD") and NASAA, was executed and became effective on May 31, 1991.[3]

[2] See Securities Exchange Act Release No. 28556 (October 19, 1990), 55 FR 43233.

[3] See Securities Act Release No. 6810 (December 16, 1988), 53 FR 52550 (release announcing a

Continued

With the intention of promoting maximum uniformity in state regulatory standards in the form of a uniform model marketplace exemption, and achieving maximum effectiveness of regulation and uniformity between federal and state standards, the MOU sets forth minimum criteria for listing common stock. The agreed upon criteria include, among other things: numerical issuer standards for net tangible assets; public float; number of shareholders; corporate governance requirements, including number of independent directors, audit committee composition, and corporate actions requiring shareholders approval; a prohibition on restrictions of shareholder voting rights; and numerical maintenance criteria. These listing criteria are virtually the same as the requirements set forth in chapter XXXI, entitled *Approval of Securities for Original Listing*, of the Exchange's Rules. In the event that SEC approval is sought to list a security not contemplated in chapter XXXI as in effect at the time of the execution of the MOU, the Exchange has agreed to notify state regulators.

The proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to foster cooperation and coordination between persons engaged in regulating and facilitating transactions in securities, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change sets forth a stated policy, practice, or interpretation with respect to the meaning, administration or enforcement of existing CBOE rules and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–91–30 and should be submitted by October 25, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–23947 Filed 10–3–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–29749; File No. SR–Phlx–91–32]

Self-Regulatory Organizations; Notice of Filing and Order Granting Temporary Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Price Protection of Limit Orders

September 27, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 13, 1991, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Exchange Rule 232 of the Rules of the Board of Governors to require Phlx specialists to provide primary market protection for Phlx limit orders in stocks listed on the American Stock Exchange ("Amex"), as well as stocks listed on the New York Stock Exchange ("NYSE"), entered during the Phlx's regular trading session, that are designed as executable after the Phlx close ("GTX orders"). The execution of these orders will be based on volume that prints in the primary market's after-hours trading session. The Phlx has requested accelerated approval of the proposed rule change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On June 13, 1991 the Commission approved for a temporary period ending on May 24, 1993, a proposed rule change submitted by the Phlx (SR–Phlx–91–26) which adopted new Rule 232 to require Phlx specialists to provide primary market protection for limit orders, entered during the Phlx's regular 9:30 a.m. to 4 p.m. trading session, that are designated as GTX orders.[1] Rule 232 authorizes member firms on behalf of customers to designate limit orders as GTX orders. Under Rule 232, GTX orders are executed as ordinary good til cancelled ("GTC") orders. If these orders are not executed during regular Phlx trading hours, however, and are priced at the NYSE closing price, then the Phlx GTX orders would be eligible

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Memorandum of Understanding between the NASD and NASAA regarding a model uniform marketplace exemption from state securities registration requirements).

[1] See Securities Exchange Act Release No. 29300 (June 13, 1991), 56 FR 28212.

for an execution after the Phlx close based on volume that prints in Crossing Session I of the NYSE's Off-Hours Trading ("OHT") session.[2] Currently, Rule 232 applies only to NYSE-listed stock traded by the Phlx because, at the time the Phlx filed SR–Phlx–91–26 to provide primary market protection to limit orders entered with the Phlx that are designated to receive the execution price that will be established in the primary market's after-hours session, only the NYSE was approved to operate an after-hours trading system. Because the Amex recently received approval to operate an after-hours facility,[3] the Phlx proposes to extend the application of Rule 232 to Amex-listed stocks as well. In this regard, the same guarantees that are extended currently by Phlx specialists with respect to NYSE-listed stocks pursuant to Rule 232 will now be extended to Amex-listed stocks.

The proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to facilitate transactions in securities, to foster a free and open market and, in general, to protect investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–91–32 and should be submitted by October 25, 1991.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission has determined to approve the proposed rule change. The Commission believes that the Phlx proposal is reasonably designed to promote just and equitable principles of trade, perfect the mechanism of a free and open national market system, and, in general, further investor protection and the public interest in fair and orderly markets on national securities exchanges, as well as facilitate the linking of qualified markets through appropriate communication systems and the practicability of brokers executing investors' orders in the best market.

The Exchange does not propose to change the substantive meaning of existing Phlx rules that require specialists to provide primary market protection. Instead, the proposal merely expands the scope of those rules to apply to securities traded during the Amex's after-hours trading session. The Phlx currently trades both NYSE-listed and Amex-listed securities pursuant to unlisted trading privileges. As a result of the rule change, Phlx specialists now will be required to provide primary market protection to certain designated orders based on order executions that occur in either primary market's after-hours trading session. Thus, Phlx specialists will be required to provide primary market protection not only to certain designated orders in NYSE-listed securities based on order executions that occur in the NYSE's Crossing Session I, but also to designated orders in Amex-listed stocks based on volume that prints in the Amex's after-hours trading facility.[4]

The Commission believes that allowing the Phlx to require its specialists to provide primary market protection to certain designated orders based on order executions that occur in either the NYSE's Crossing Session I or in the Amex's after-hours trading facility is consistent with fair and orderly markets. The Commission also believes that requiring Phlx specialists to provide primary market protection to orders in both NYSE-listed and Amex-listed stocks should help to ensure that investors receive the best execution of their orders. For these reasons, the Commission finds that approval, for a temporary period ending on May 24, 1993, of the Exchange's proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6 and 11A of the Act.[5]

In addition, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Phlx's proposal

[2] The NYSE's OHT facility extends the NYSE's trading hours beyond the 9:30 a.m. to 4 p.m. trading session to establish two trading sessions, Crossing Session I which permits the execution of single-stock single-sided closing-price orders and crosses of single-stock closing-price buy and sell orders; and Crossing Session II which allows the execution of crosses of multiple-stock aggregate-price buy and sell orders. See Securities Exchange Act Release No. 29237 (May 24, 1991), 56 FR 24853 (approving Files No. SR–NYSE–90–52 and NYSE–90–53).

[3] On August 2, 1991, the Commission approved a proposed rule change by the Amex to establish a pilot program extending its trading hours to establish an after-hours trading facility that would permit the execution of: (1) single-sided closing-price orders; and (2) crosses of closing-price buy and sell orders. See Securities Exchange Act Release No. 29515 (August 2, 1991), 56 FR 37736 (approving File No. SR–Amex–91–15). The Amex's after-hours trading facility is substantially similar to the NYSE's Crossing Session I. See supra note 2.

[4] The Commission has approved proposals by several of the regional stock exchanges to require their specialists to provide primary market protection to limit orders, designated as executable after the close of the regular trading session, based on volume that prints in the primary market's after-hours session (see Securities Exchange Act Release Nos. 29301 (June 13, 1991), 56 FR 28182 (granting temporary accelerated approval to File No. BSE–91–4); 29297 (June 13, 1991), 56 FR 28191 (granting temporary accelerated approval to File No. MSE–91–11); 29305 (June 13, 1991), 56 FR 28208 (granting partial temporary accelerated approval to File No. PSE–91–21) and 29543 (August 9, 1991), 56 FR 40929 (granting accelerated approval to File No. SR–PSE–91–28); and 29300 (June 13, 1991), 56 FR 28212 (granting temporary accelerated approval to File No. Phlx–91–26). The Commission notes that its approval of these proposals is limited in application to providing execution guarantees based on volume that prints in the primary market crossing sessions that have been approved by the Commission [*i.e.*, NYSE's Crossing Session I (see *supra* note 2) and Amex's after-hours trading facility (see *supra* note 3)]. If the NYSE or the Amex were to propose new after-hours trading systems, the Phlx, as well as the Boston, Midwest, and Pacific Stock Exchanges would have to submit new proposed rule changes to extend their execution guarantees to the new systems.

[5] 15 U.S.C. 78f and 78k–1 (1988). The Commission approved the Phlx rules relating to GTX orders for a temporary pilot period ending on May 24, 1993. See Securities Exchange Act Release No. 29300, *supra*, note 1. Because the instant rule change amends these same rules, the Commission is approving these changes for the same time period.

merely extends the Exchange's current rules, which allow the Exchange to require its specialists to provide primary market protection to orders that have been entered with the Phlx but are designated to receive the execution price that will be established in the primary market's after-hours session, so that they will apply to any primary market's after-hours session and not only to the NYSE's OHT facility. It does not substantially alter current Phlx procedures, nor does it raise issues not already addressed in the order approving the Phlx rules regarding providing primary market protection to certain limit orders. Also, the substance of this proposal was published in the **Federal Register** for the full statutory period and no comments were received by the Commission.[6] Finally, the Commission recently granted approval on an accelerated basis to a virtually identical proposal by the PSE to allow PSE specialists to extend primary market protection to orders based on prices established in any primary market's after-hours trading session and not only to prices established by the NYSE's OHT facility.[7] Approval of the Phlx filing on an accelerated basis will put the Exchange in an equal competitive position with the PSE. Accordingly, the Commission believes it is appropriate to approve the proposed rule change on an accelerated basis in order to provide primary market protection for eligible limit orders and to permit the Phlx to compete with the Amex's after-hours trading facility and with any other primary market's after-hours session.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change is approved for a temporary period ending on May 24, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-23946 Filed 10-3-91; 8:45 am]

BILLING CODE 8010-01-M

[6] See Securities Exchange Act Release No. 29300, *supra* note 1.

[7] See Securities Exchange Act Release No. 29543 (August 9, 1991), 56 FR 40929 (granting accelerated approval to File No. SR-PSE-91-28).

[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 CFR 200.30-3(a)(12) (1990).

[Release No. 34-29750; File No. SR-Phlx-91-29]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Required Staffing of the Equity Floor

September 27, 1991.

I. Introduction

On July 12, 1991, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and rule 19b-4 thereunder,[2] a proposed rule change to adopt a new Phlx Equity Floor Procedure Advice ("EFPA" or "Advice") relating to the required staffing of the equity floor.

The proposed rule change was noticed in Securities Exchange Act Release No. 29480 (July 24, 1991), 56 FR 36185 (July 31, 1991). No comments were received on the proposal.

II. Description of the Proposal

The proposed EFPA E-E-1—Required Staffing of the Equity Floor—will require that each specialist and floor brokerage unit have a firm representative present on the Phlx equity trading floor thirty (30) minutes prior to the opening of trading as well as thirty (30) minutes after the close of trading. Further, the proposed advice will require that the firm representative be authorized to make appropriate changes and corrections to trades made or guaranteed by such specialist unit or floor brokerage unit. Finally, the Exchange proposed to apply the following fine schedule to violations of the proposed staffing requirements:

1st Occurrence—Warning
2nd Occurrence—$100.00
3rd Occurrence—$250.00
4th Occurrence—Sanction is discretionary with business conduct committee

III. Discussion and Conclusion

After careful consideration, the Commission finds that the proposed rule change is consistent with section 6(b) of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, for the reasons set forth below, the Commission believes that the proposal is consistent with the section 6(b)(5) [3] requirement that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation with persons engaged in regulating, clearing, settling and processing information with request to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with the requirement set forth in section 6(b)(6) [4] that the rules of an exchange must provide that members shall be appropriately disciplined for violations of the Act, the rules or regulations thereunder, or the rules of the exchange.

Specialists and floor brokerage units play a significant role in consummating trades on the Exchange floor, and have a concomitant responsibility to ensure that such transactions are processed efficiently and properly. The Commission believes that the speedy resolution of trading discrepancies is essential to the facilitation of transactions in securities and the maintenance of fair and orderly markets.

The Commission finds that the Phlx's proposal, which will require that a representative of the Exchange's specialist units and floor brokerage units be present on the floor thirty minutes before trading opens and thirty minutes after trading closes, will augment efficiency on the Exchange floor. In this regard, discrepancies which arise with regard to particular trades will have a greater likelihood of being resolved prior to the opening of the next trading day if the proposed staffing requirements are in effect. More specifically, if a trade discrepancy is found to exist after the close of the trading day, the members involved would have the ability to resolve this problem until 4:30 p.m. that same day, or after 9 a.m. to 9:30 a.m. the following trading day. In the absence of the proposed requirement, it is less likely that representatives from the individual firms will be present to resolve such problems prior to the next day's opening.

The proposed rule change's purpose of fostering speedy resolution of trade disputes can help to reduce the problems spawned by such disputes. For example, there may be instances where a specialist and floor broker disagree as to whether or not a trade was consummated. If at the close of trading, a floor broker, after reviewing his trade

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1990).

[3] 15 U.S.C. 78f(b)(5) (1988).

[4] 15 U.S.C. 78f(b)(6) (1988).

reports for the day, believes he bought 500 shares for a customer account, but the specialist denies having participated in the trade, the discrepancy needs immediate attention. The longer the discrepancy goes unresolved, the greater the risk for a potential loss. Thus, the quicker trading discrepancies are uncovered, the sooner such problems can be rectified.

Additionally, because customers may call at the end of the trading day to inquire as to whether a specific trade occurred and the circumstances surrounding such transaction, someone knowledgeable about the specific account should be present to answer their questions and clarify any problems. Thus, the Commission believes that the proposed Advice will provide the investing public with access to essential marketplace information. The ability to obtain such information readily will aid in the maintenance of a free and open market.

Furthermore, the Commission believes that the proposed thirty minute time frame should allow ample opportunity for the appointed representative to address trading day problems that have arisen.

Moreover, the Commission believes that it is consistent with the Act for the Phlx to require the member's representative to be authorized to make appropriate changes and corrections to trades made or guaranteed by such specialist or floor brokerage unit. Without this requisite authorization, the representative would act as a conduit of information only and, while potentially beneficial, the Commission believes that the primary purpose of the proposal, the timely correction of trading discrepancies, may not always be fulfilled.

Finally, the Commission finds that the proposed fine schedule is consistent with section 6(b)(6) of the Act [5] which requires that the Exchange's rules provides for the appropriate discipline of its members and persons associated with its members for violations of the rules of the Exchange. The Commission believes that the proposed fine schedule provides a reasonable and fair method by which to discipline Exchange members who violate the proposed advice.

It is therefore Ordered, Pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-23887 Filed 10-3-91; 8:45 am]

BILLING CODE 8010-01-M

[5] 15 U.S.C. 78f(b)(6) (1990).

[6] 15 U.S.C. 78s(b)(2) (1988).

[7] 17 CFR 200.30-3(a)(12) (1990).

[Rel. No. IC-18336; Int'l Series Release No. 318; 812-7781]

Metropolitan Series Fund, Inc.; Application

September 27, 1991.

AGENCY: Securities and Exchange Commission (the "SEC" or "Commission").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANT: Metropolitan Series Fund, Inc.

RELEVANT ACT SECTIONS: Order requested under section 6(c) that would grant an exemption from section 12(d)(3) and rule 12d3-1.

SUMMARY OF APPLICATION: Applicant seeks a conditional order permitting it to invest in equity and convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from securities related activities in accordance with the conditions of the proposed amendments to rule 12d3-1 under the Act.

FILING DATE: The application was filed on August 28, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 22, 1991, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Metropolitan Life Insurance Company, One Madison Avenue, New York, New York 10010. Attention: Christopher P. Nicholas, Esq.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Law Clerk, at (202) 272-3026, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, an open-end management investment company registered under the Act, currently consists of nine series ("Portfolios"). Metropolitan Life Insurance Company ("Metropolitan") is the investment manager to each of the Portfolios. State Street Research & Management Company ("State Street"), a wholly-owned subsidiary of Metropolitan, is the sub-investment manager for Applicant's Growth, Income, Diversified, GNMA, Equity Income, and Aggressive Growth Portfolios. GFM International Investors (London) Limited ("GFM") is the sub-investment manager of applicant's International Stock Portfolio.

2. Applicant wishes to invest in foreign issuers that, in their most recent fiscal year, derived more than 15% of their gross revenues from their securities related activities as a broker, dealer, underwriter, or investment adviser ("Foreign Securities Companies").

3. Applicant seeks relief from section 12(d)(3) of the Act and rule 12d3-1 thereunder to invest in securities of Foreign Securities Companies to the extent allowed in the proposed amendments to rule 12d3-1. See Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989). The proposed amendments to rule 12d3-1 would, among other things, facilitate the acquisition by applicant of securities issued by Foreign Securities Companies. Applicant's proposed acquisitions of securities issued by Foreign Securities Companies will satisfy each of the requirements of the proposed amendments to rule 12d3-1.

4. Applicant requests any order exempting applicant apply to any additional portfolio that applicant may create in the future, and to any other registered investment companies or series thereof which in the future are advised by Metropolitan or its affiliates, State Street or GFM, or for which any of those entities may in the future serve as principal underwriter.

Applicant's Legal Conclusions

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1 under the Act provides an exemption from section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities related activities, provided the acquisitions satisfy certain conditions set forth in the rule. Subparagraph (b)(4) of rule 12d3–1 provides that "at the time of acquisition, any equity security of the issuer * * * [must be] a 'margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." Since a margin security generally must be one which is traded in the United States markets, securities issued by many Foreign Securities Companies would not meet this requirement. Accordingly, applicant seeks an exemption from the margin security requirements of rule 12d3–1.[1]

2. The proposed amendments to rule 12d3–1 provide that the margin security requirement would be excused if the acquiring company purchases the equity securities of Foreign Securities Companies that meet criteria comparable to those applicable to equity securities of United States securities related businesses. The criteria, as set forth in the proposed amendments, "are based particularly on the policies that underlie the requirements for inclusion on the list of over-the-counter margin stocks." Investment Company Act Release No. IC–17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989).

Applicant's Condition

Applicant agrees to the following condition in connection with the relief granted:

Applicant will comply with the provisions of rule 12d3–1 under the Act as proposed to be amended or as such amendments may be reproposed, adopted or amended.

[1] The staff of the Division of Investment Management notes that the Board of Governors of the Federal Reserve System has amended Regulation T to include "foreign margin stock." However, because the requirements for inclusion on the Board's "List of Foreign Margin Stocks" are generally more restrictive than the requirements for a "margin security" traded in the United States markets, securities issued by many Foreign Securities Companies are not included in the definition of "foreign margin stock" under Regulation T. See 12 CFR 220.2(i) and (q)(6).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–23884 Filed 10–3–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–18335; 811–3849]

Prudential-Bache Corporate Dividend Fund, Inc.; Application

September 27, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Prudential-Bache Corporate Dividend Fund, Inc.

RELEVANT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on May 15, 1990, and amendments to the application were filed on June 6 and September 9, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 pm on October 22, 1991, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, One Seaport Plaza, New York, New York 10292.

FOR FURTHER INFORMATION CONTACT: H.R. Hallock, Jr., Special Counsel, at (202) 272–3030 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, registered as an open-end diversified management investment company under the 1940 Act on September 16, 1983 under the name Prudential-Bache Adjustable Rate Preferred Stock Fund, Inc. Its registration statement under the Securities Act of 1933 was declared effective on December 15, 1983, and an initial public offering was commenced immediately thereafter. The Applicant's name was changed to Prudential-Bache Corporate Dividend Fund, Inc. on July 5, 1988.

2. At a special meeting held on January 10, 1989, a majority of Applicant's board of directors, at the recommendation of Prudential Mutual Fund Management, Inc., as Manager, voted to cease sales of the Applicant's shares and to recommend that Applicant's shareholders voluntarily redeem their shares. Notice of these and related determinations was mailed to shareholders of record by letter dated January 10, 1989.

3. The Manager agreed to waive its fee and absorb all of the Applicant's operating expenses as of January 10, 1989. For that reason, the Applicant has no liabilities. Further, pursuant to an agreement between the Applicant and the Manager, the Manager agreed to absorb any costs associated with any claims which may be made against the Applicant in the future, to the extent such claims might not be covered by insurance. The Applicant is not aware of any such claims.

4. As of March 26, 1990, the Applicant had redeemed all shareholder accounts at the net value per share on the day each such redemption was effective, except Prudential Securities Incorporated ("PSI"), which has since reduced its share ownership to a nominal amount. With the exception of the $1,000 of remaining assets of the Applicant representing the ownership interest of PSI, all of the Applicant's assets were distributed to shareholders in connection with the redemption of their shares.

5. At the time of filing of the original application, the Applicant was a named defendant in two lawsuits. The first lawsuit, *Potomac Capital Markets Corporation and Potomac Capital Preferred Corporation* v. *Prudential-Bache Corporate Dividend Fund, Inc., Prudential Mutual Fund Management, Inc., Lawrence C. McQuade, Edward D. Beach, Michael J. Downey, Delayne D. Gold, Harry A. Jacobs, Jr., Stanley E. Shirk, Stephen Stoneburn, and Nancy Hays Teeters,* 89 Civ. 2350 (RPP), was

filed April 7, 1989, in the United States District Court, Southern District of New York, seeking unspecified monetary damages for alleged violations of sections 20(a), 34(b), 13(a)(3), 13(a)(4), 25(a) and 36(b) of the 1940 Act as well as certain claims under Maryland law. Plaintiff in the second lawsuit, *Louisiana General Services, Inc.* v. *Prudential-Bache Securities Inc., Prudential-Bache Corporate Dividend Fund, Inc. and Prudential Mutual Fund Management, Inc.*, 89 Civ. 5503, filed a First Amended and Restated Complaint on April 24, 1990, in the United States District Court, Eastern District of Louisiana in which it added the Applicant and the Manager as co-defendants in its previously filed suit against PSI seeking monetary damages for alleged violations of Sections 20(a), 34(b), 13(a)(3) and 36(b) of the 1940 Act as well as certain claims under the Securities Act of 1933 and under Louisiana law.

6. Neither action remains pending. The first lawsuit was discontinued with prejudice pursuant to a Stipulation and Order of Discontinuance with Prejudice, filed March 27, 1991, and the second lawsuit was dismissed with prejudice pursuant to a Joint Motion to Dismiss with Prejudice, filed November 13, 1990. The Manager was a named party in each of the lawsuits and was a party to the settlements thereof. As indicated above, any amounts paid in settlement of such claims are covered by insurance or will be absorbed by the Manager. The Applicant itself has not and will not make any payments in connection therewith. As of September 7, 1991, the date of filing of the second amended application, the Applicant was not a party to any litigation or administrative proceeding.

7. Applicant is not presently engaged, nor does it propose to engage, in any business activities other than those necessary to wind up its affairs. Upon the granting of the order requested by the application, the Applicant intends to file Articles of Dissolution with the State of Maryland and to take such other steps as shall be necessary and proper under Maryland law to effect a complete liquidation and dissolution.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-23885 Filed 10-3-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25387]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

September 27, 1991.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 21, 1991 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Cedar Coal Company (70-7181)

Cedar Coal Company ("Cedar"), 40 Franklin Road, SW., Roanoke, Virginia 24011, a nonutility subsidiary company of Appalachian Power Company, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed a post-effective amendment to its application under sections 9(a), 10 and 13(b) of the Act and rules 86, 90 and 91 thereunder.

By order dated December 31, 1985 (HCAR No. 23973), Cedar was authorized to renovate, rebuild and modify major pieces of mining equipment at its Central Rebuild Shop ("Shop") both for associate companies and for nonassociate companies. Regarding the performance of services for associate companies, the order contained no expiration date for the authority; but with respect to the performance of services for nonassociate companies the authority expired on December 31, 1988. Subsequently, by order dated February 3, 1989 (HCAR No. 24812), Cedar was granted an extension to provide such services to nonassociate companies through December 31, 1991.

Cedar now requests authorization to provide such services for nonassociate companies through December 31, 1996. Service charges to nonassociate companies would include a profit margin and be as high as practicable, after giving consideration to the competitive market, but in no event less than the anticipated incremental costs of labor and materials. Revenues from nonassociate companies will not exceed in any calendar year revenues from associate companies. The revenue derived from providing services to nonassociates would be used to reduce Shop operation costs and therefore reduce the rate charged by the Shop to associate companies.

Northeast Utilities (70-7883)

Northeast Utilities ("NU"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) of the Act and rules 50(a)(5) thereunder.

By order dated March 12, 1991 (HCAR. No. 25271), the Commission authorized NU, under rule 62(d) of the Act, to solicit proxies from the holders of NU common stock for authority to issue up to 11 million shares of additional common stock ("Additional Shares") to an employee stock ownership plan ("ESOP") in the event that NU decided to establish such a plan. At the annual meeting of shareholders held on May 21, 1991, the NU shareholders authorized the issuance of the Additional Shares to the ESOP.

NU has now decided to establish a leveraged ESOP as part of its existing 401(k) employee benefits plan. In this regard, NU is seeking Commission authority, from time-to-time through December 31, 1992, to: (1) Issue and sell up to 11 million Additional Shares to the ESOP; (2) issue and sell long-term notes and secured long-term debt respectively to institutions and to the public to provide loans to the ESOP to fund the acquisition of Additional Shares in principal amounts of up to $220 million; (3) acquire notes in connection with loans to the ESOP to fund the acquisition of Additional Shares; and (4) provide any guarantees that may be required in connection with borrowings directly obtained by the ESOP to acquire Additional Shares.

The NU system currently has in place a 401(k) plan that allows eligible

employees of the NU system companies to contribute through payroll deductions up to 13 percent of their annual compensation and bargaining unit employees up to 10 percent of such compensation, and to direct the investment of their contributions to three available investment accounts: (1) A guaranteed long-term investment account; (2) a common stock/pooled equity fund account; and (3) an NU common stock fund account. The NU system companies currently match 50 percent of each participant's contributions up to three percent of such participant's annual compensation. All NU common stock purchased for the 401(k) plan is currently purchased by the 401(k) plan trustee in the open market. The NU system companies currently fund their matching obligations by transferring cash to the 401(k) plan.

Under this proposal, Additional Shares would be acquired and held by the trustee for the ESOP ("Trustee") and allocated to eligible employees' accounts in lieu of cash, as all or a portion of the employer match for the 401(k) plan. The Trustee will acquire the Additional Shares directly from NU at a price not exceeding the fair market value of NU shares at the time of purchase.

To fund the acquisition of the Additional Shares, the Trustee will either borrow funds from NU and/or obtain independent debt financing in aggregate principal amounts not exceeding $220 million. To the extent that NU provides loans to the ESOP, it proposes to issue long-term notes in connection with borrowing such amounts from institution lenders or to issue and sell secured long-term debt instruments in the public markets, both with maturities not exceeding 20 years. In the same manner and in the event that the Trustee obtains his own financing, he will also borrow from institutional lenders or in the public markets, and NU proposes to guarantee such borrowings in either circumstance.

Borrowings by NU or the Trustee would be within the following general parameters. The length of maturity would be no longer than 20 years, and the interest rate would be fixed based on the equivalent long-term U.S. Treasury Bond rate, plus no more than 250 basis points. The exact rate would be a function of the source, the length of maturity, the size of the ESOP, the quality rating of the debt, prevailing market conditions and certain other non-financial terms and conditions. Based on current market conditions, it is anticipated that the interest rate on the debt would be from 9⅜ percent to 9½ percent per annum.

Any lending from NU directly to the ESOP would be evidenced by notes maturing in not more than 20 years and would be paid in one or more installments over a 12-month period, at an interest rate(s) that reflects market rates at the time of the borrowing. The interest and principal payment provisions would comply with Employee Retirement Income Security Act of 1974 and Internal Revenue Code provisions applicable to the ESOP. The Trustee would pledge and grant to NU a security interest in all unallocated NU shares held by the Trustee as security for the debt obligation. The principal amount of the loan or loans and the interest thereon would be repaid by the Trustee using cash dividends paid on the Additional Shares acquired by the ESOP and, to the extent necessary, by periodic contributions by participating employers to the ESOP.

NU requests that the issuance and sale of the Additional Shares to the ESOP, any issuance of debt by NU and any guarantee by NU of the debt incurred by the ESOP be excepted from the competitive bidding requirements of rules 50 (b) and (c) under rule 50(a)(5) thereunder, so that the terms and conditions of the transactions may be negotiated by NU. It may do so.

American Electric Power Company, Inc. et al. (70–7886)

American Electric Power Company, Inc. ("AEP"), a registered holding company, and AEP Investments, Inc. ("AEP Investments"), a proposed wholly owned nonutility subsidiary company, both of 1 Riverside Plaza, Columbus, Ohio 43215, have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rule 45 thereunder.

AEP requests authority to organize and finance a new, nonutility subsidiary, AEP Investments, whose primary purpose would be investment and participation in the development of demand-side management projects. Such projects would have as their goal the reduction of the number and size of future electric power generating plants of the AEP system public-utility companies. The instant proposal focuses on the development and commercialization of electronic light bulb technology which AEP believes may produce significant reductions in lighting loads.

AEP proposes to purchase 100 shares of common stock, $1.00 par value, of AEP Investments for an aggregate consideration of $10,000. Authority is also requested for AEP to provide capital contributions to AEP Investments in an aggregate of up to $6,500,000 from time to time through June 30, 1993.

AEP Investments proposes to acquire securities in Intersource Technologies, Inc. ("Intersource"), a nonaffiliated company, up to an aggregate of $6.5 million. Authority is requested through June 30, 1993 for AEP Investments to purchase up to 800,000 shares of Intersource common stock (approximately 9.9% of its issued and then outstanding common stock), $.001 par value, for a consideration of $2.50 per share, and up to 45,000 shares of a class of 8% Cumulative Convertible/Redeemable Preferred Stock, $100 par value. Such preferred stock will be convertible into Intersource common stock at a conversion price of $3.00 per share of Intersource common stock. AEP Investments states that such conversion provisions will only be exercised if, as a result of the conversion, AEP Investments' total ownership of Intersource's outstanding common stock will not exceed 9.9%. Consequently, AEP Investments will at all times hold less than 10% of the outstanding common stock of Intersource. AEP will also have the right to designate for election one member of the board of directors of Intersource as long as AEP Investments owns Intersource common or preferred stock.

AEP Investments will divest itself of all its interests in Intersource no later than January 1, 2002, by which time the development and commercialization of electronic light bulb technology will be complete and AEP's demand-side management goals largely achieved. AEP proposes to purchase products featuring this technology for use in its demand-side management programs either directly through Intersource or its distributors. AEP does not propose to become a licensee, a distributor or marketing agent of any electronic light bulb products.

Central and South West Corporation (70–7907)

Central and South West Corporation ("CSW"), 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75266, a registered holding company, has filed a declaration under section 12(f) of the Act.

Pursuant to Commission order dated November 4, 1982 (HCAR No. 22695), CSW acquired all of the authorized capital stock of CSW Financial, Inc. ("Financial"), no par value, for $1.00 per share. CSW formed Financial to invest in tax benefit transfers ("TBT's"), as provided for in the Economic Recovery

Tax Act of 1981. Financial purchased TBT's (which included accelerated tax depreciation and investment tax credits generated by corporations) from companies that could not benefit from the tax deductions.

CSW now proposes to merge Financial into itself, taking title to all property and assets of Financial, and assuming liability for all of Financial's obligations. The proposed merger will be consummated pursuant to an Agreement of Merger (the "Agreement") to be adopted by the Board of Directors of CSW. The Agreement will provide, among other things, that the outstanding shares of Financial common stock will be extinguished. All liens upon the respective properties of CSW and Financial will be preserved unimpaired. The provisions of the Internal Revenue Code which provided for the purchase of TBT's have now been repealed, and as a result, no new investments can be made by Financial. Since its initial purchases of TBT's in 1982 and 1983, Financial's only activities have been associated with the carryover tax effects of its original investment.

Applicant asserts that there is no reason to continue to maintain a separate corporate structure for Financial. The merger of Financial into CSW will eliminate the costs of maintaining separate books of account, corporate taxes and other corporate records. Applicant asserts that the merger will also simplify the preparation of the consolidated tax return and the allocation of the consolidated tax liability, and simplify the corporate structure of the CSW Holding Company system.

Eastern Edison Company, et al. (70-7908)

Eastern Edison Company ("Eastern Edison"), 110 Mulberry Street, Brockton, Massachusetts 02403, Montaup Electric Company ("Montaup"), P.O. Box 2333, Boston, Massachusetts 02107, Blackstone Valley Electric Company ("Blackstone"), Washington Highway, P.O. Box 1111, Lincoln, Rhode Island 02865, Newport Electric Corporation ("Newport"), 12 Turner Road, P.O. Box 4128, Middletown, Rhode Island 02840, and EUA Service Corporation ("Service"), P.O. Box 2333, Boston, Massachusetts 02107, subsidiary companies (collectively, "Subsidiaries") of Eastern Utilities Associates ("EUA"), a registered holding company, have filed an application-declaration under sections 6(a), 6(b) and 7 of the Act.

The Subsidiaries each propose to issue short-term notes to banks ("Notes"), from time-to-time through December 31, 1993, in aggregate amounts outstanding at any one time not to exceed $35 million for Eastern Edison, $25 million for Montaup, $15 million for Blackstone, $10 million for Newport, and $10 million for Service. The Notes will be issued to banks and renewed from time-to-time prior to December 31, 1993, provided no such Notes will mature after September 30, 1994.

Notes will be issued to banks pursuant to informal credit line arrangements which provide for borrowings at a floating prime rate or at available fixed money market rates. Notes will mature in not more than one year from the date of issuance. Notes bearing interest at the floating prime rate will be subject to prepayment at any time without premium. Notes bearing interest at available money market rates, which in all cases will be less than the prime rate at time of issuance, will not be prepayable.

Credit lines with banks are subject in some cases to commitment fees. The existing credit line arrangements provide for borrowing at the prime rate or money market rates together with a commitment fee equal to ¼ of 1% multiplied by the line of credit. Any such commitment fee will be allocated among the Subsidiaries and other EUA system companies who have access to system lines of credit pursuant to applicable regulatory authority, in proportion to their respective borrowing authorizations.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 91-23886 Filed 10-3-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Advisory Commission on Conferences in Ocean Shipping; Open Meeting

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice of open meeting of the Advisory Commission on Conferences in Ocean Shipping.

SUMMARY: The Commission will be holding a meeting in Washington, DC on Thursday, October 17, 1991; the meeting is open to the public. The Commission plans to frame the issues before the Commission as it begins the deliberative phase of its work.

DATES: *Meeting:* Thursday, October 17, 1991, 9 am to 5 pm EST.

ADDRESSES: The address for the public meeting is Department of Transportation Headquarters Building, 400 Seventh Street, SW, Washington, DC, room 10234-38.

FOR FURTHER INFORMATION CONTACT: Florizelle B. Liser, Executive Director; telephone (202) 366-9781; FAX (202) 366-7870.

SUPPLEMENTARY INFORMATION: The Commission was created by the Shipping Act of 1984 to conduct an independent and comprehensive study of conferences in ocean shipping, particularly whether the Nation would be best served by prohibiting conferences, or by closed or open conferences. The Commission is to provide its reports, including recommendations to the President and the Congress by April 10, 1992. Having held five field hearings around the country over the last four months, the Commission is now entering the deliberative stage of its work. At this meeting, the Commissioners will review the information which has been provided to them during the hearings and in interviews conducted by the Commission staff. In particular, they will begin to frame the issues and options before the Commission.

Issued in Washington, DC on October 1, 1991.

Florizelle B. Liser,

Executive Director.

[FR Doc. 91-23973 Filed 10-1-91; 1:46 pm]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-91-35]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication

of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 24, 1991.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–10), Petition Docket No. ____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. C. Nick Spithas, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9683.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on September 25, 1991.

Denise Donohue Hall,

Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 26183.

Petitioner: Air Transport Association of America.

Sections of the FAR Affected: 14 CFR part 121, appendix H and 61.157

Description of Relief Sought: To allow the Air Transport Association of America's member airlines to use a Phase II simulator for Pilot-in-command training and for the certification check required by § 61.157.

Docket No.: 26623.

Petitioner: American Airlines, Inc.

Sections of the FAR Affected: 14 CFR 121.343(e).

Description of Relief Sought: To allow American Airlines, Inc., a temporary exemption from compliance with § 121.343(e) until March 11, 1992. This exemption would include American Airlines' Airbus A300, Boeing 757 and 767 aircraft manufactured prior to October 11, 1991.

Docket No.: 26628.

Petitioner: Calcutta Aircraft Leasing, Inc

Sections of the FAR Affected: 14 CFR 125.225(a) and 91.609(a).

Description of Relief Sought: To allow Calcutta Aircraft Leasing, Inc., to delay installation of an 11-parameter flight data recorder (FDR) that meets the technical requirements of part 125, appendix D, by a May 11, 1993, compliance date, rather than by the October 11, 1991, compliance date.

Docket No.: 26636.

Petitioner: Carson City Sheriff's Department.

Sections of the FAR Affected: 14 CFR 61.118.

Description of Relief Sought: To allow members of the Carson City Sheriff's Aero Squadron to be reimbursed for fuel, oil, and maintenance expenses while performing official duties involving the use of member-provided aircraft on authorized missions for the Carson City Sheriff's Department.

Dispositions of Petitions

Docket No.: 23875.

Petitioner: Beech Aircraft Corporation.

Sections of the FAR Affected: 14 CFR 45.25(b)(2).

Description of Relief Sought: To extend Exemption No. 4061D from § 45.25(b)(2) of the Federal Aviation Administration. This exemption was issued July 31, 1989, and subject to certain conditions and limitations, it permits Beech Aircraft Corporation to display 12-inch high nationality and registration marks on the outboard surfaces of the engine nacelles for its Models 2000 and 115–67 aircraft. The engine nacelles are an integral part of the wing pods and if the marks were located on the side of the fuselage they would be hidden from view by these nacelles. *Grant, September 12, 1991, Exemption No. 4061E.*

Docket No.: 25624.

Petitioner: McDonnell Douglas Airplane Company.

Sections of the FAR Affected/ Disposition: 14 CFR 121.411(a) (2), (3) and (b)(2), 121.413 (b), (c) and (d), and part 121, appendix H.

Description of Relief Sought: To extend the termination date of Exemption No. 5117, which permits part 121 certificate holders to contract for training provided by McDonnel Douglas Airplane Company. *Grant, August 30, 1991, Exemption No. 5117A.*

[FR Doc. 91–23983 Filed 10–3–91; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received from the Canadian National (CN) a request for a waiver of compliance with a requirement of Federal rail safety standards. The petition is described below, including the regulatory provisions involved and the nature of the relief being requested.

Canadian National Waiver Petition Docket Number LI–91–7

The Canadian National (CN) seeks a waiver of compliance with certain provisions of the Locomotive Safety Regulations (49 CFR part 229). CN is requesting a temporary waiver of compliance with § 229.29, for all of their locomotives with 26–L Brake Equipment operating in the United States. Section 229.29 stipulates that all brake valves, with the exception of 26–L type, must be cleaned, tested and inspected every 736 calendar days. The 26–L type air brake equipment must be cleaned, inspected and tested every 1104 calendar days.

CN and the Canadian Pacific Limited (CP) in conjunction with Transport Canada participated in a test program covering a total of 60 locomotives with 26–L Brake Equipment for a period of 48 months. Ten of the CP test locomotives operated in the United States and a temporary waiver was granted for these locomotives under Docket No. LI–88–4. During the test period, all failed valves were tested and inspected for cause of failure. At the completion of the 48 month period, six locomotive sets of air brake equipment were tested and disassembled for inspection of their internal condition. The remaining 54 sets of brake equipment were subjected to the normal COT&S. Results of this test were favorable and Transport Canada has now authorized an extended 48 month test, with certain conditions, to include all locomotives with 26–L type air brake equipment operating on CP and CN.

CP has requested an extension of their waiver (Docket Number LI–88–4A, **Federal Register**, Vol. 56, No. 149, 37122) and since many of their locomotives are equipped for international service, the possibility exists that they may enter the United States during the normal course of their operations. In order to preserve the integrity of the expanded test, CP Rail had requested relief from the 1104 calendar day (36 month) clean, inspect and test schedule contained in 49 CFR part 229.29 for all CP Rail locomotives

equipped with 26–L Brake Equipment. CN is now requesting the same relief for all CN locomotives with 26–L Brake Equipment operating in the United States.

CN proposes that the following conditions apply if their application is approved:

1. Each locomotive specified will have stencilled in a prominent location in the cab the following: "AIR BRAKE EQUIPMENT UNDER TEST WITH FRA WAIVER APPROVAL".

2. The test report, when completed, will be forwarded to the FRA.

3. If any incident occurs which involves one of these test locomotives and is attributable to the air brakes on the test locomotive, the FRA Office of Safety will be notified as soon as practicable.

A previous requirement that all valves be painted for identification would no longer be necessary since all locomotives are included in the test.

Each locomotive would receive a COT&S on or before the expiration of the 48 month period.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number LI–91–7) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before November 4, 1991, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC on September 24, 1991.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 91–23975 Filed 10–3–91; 8:45 am]

BILLING CODE 4910–06–M

UNITED STATES INFORMATION AGENCY

Curriculum Development in Civics Education for Eastern Europe and the Baltic States

AGENCY: United States Information Agency.

ACTION: Notice—request for proposals.

SUMMARY: Subject to the availability of funds, the United States Information Agency (USIA) invites applications from U.S. educational institutions and public and private non-profit organizations to develop a 30-day group program for approximately 15 educators from Eastern Europe. Program participants will be interested in curriculum reform to introduce and strengthen civics education in their home countries. Applicant organizations should demonstrate a proven record (at least four years) of experience in international exchange.

DATES: Deadline for proposals: All copies must be received at the U.S. Information Agency by 5 p.m. e.s.t. on Friday, November 8, 1991. Faxed documents will not be accepted, nor will documents postmarked November 8 but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. Program should begin between February 1 and April 1, 1992.

DURATION OF GRANT: The grant period will begin approximately three months before the opening date of the program, and end approximately two months after the closing date of the program.

ADDRESSES: The original and fifteen copies of the completed application, including required forms, should be sent to the office below: U.S. Information Agency, Ref.: Curriculum Development for Civics Education, Office of the Executive Director, E/X, room 336, 301 4th Street SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions should contact Smaroula G. Stephens at E/AAS, room 256, U.S. Information Agency, 301 4th Street SW., telephone number (202) 619–4557 to request detailed application materials, which include award criteria, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION: Overall authority for these exchanges is contained in the Mutual Educational and Cultural Exchange Act of 1961, as amended, Public Law 87–256 (Fulbright-Hays Act). The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and other countries of the world." Programs and projects must conform with all Agency requirements and guidelines, and are subject to final review by the USIA contracting officer. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life.

Program Guidelines

Program Objectives

The long-term goal of this program is to assist participants to develop a framework for civic education that includes democratic values, to apply to national curriculum reform in their home countries. The program should introduce participants to civic education as it is taught at the secondary school level in the U.S. Review of the content of relevant courses and discussion of teaching methodology should provide participants with a foundation on which the development of a strong program in civic education is based. The project should demonstrate how democratic concepts and principles are included in U.S. education.

Participants

The program is designed for a group of fifteen educators and administrators from Bulgaria, Czechoslovakia, Hungary, Poland, Romania, Yugoslavia and the Baltic republics. Participants may be employees of the Ministry of Education, secondary school administrators, teacher trainers of secondary school level instructors, or developers of secondary school curriculum. All participants should be concerned with instituting national reform of the secondary school curriculum to include democratic principles.

Program Description

Proposal should cover:

1. An introduction to the U.S. education system. Participants should receive background information on the U.S. education system to provide context for the project's major emphasis

on civic education. This introduction should include information about the Federal-State-local system, the philosophy and goals of public and private education, funding patterns, and the major players involved in the overall civic education area such as schools, government, private clubs, religious institutions, public libraries, and parents. Program might include, but not emphasize, some of the major issues in American education, such as teacher qualifications, back-to-basics, bilingualism, multiculturalism.

2. Information on courses in civics education.

A. Traditional social studies courses, such as:

a. U.S. and world history,

b. U.S. government and comparative government institutions,

c. Media and current events,

d. Courses that include discussion of community volunteerism, public interest groups, legal norms and procedures.

B. Courses stressing the philosophy of democratic institutions, citizen behavior and social responsibility, with such themes as:

a. The balance of individual rights versus the rights of the group,

b. Reconciliation and compromise,

c. The rule of law and civil disobedience,

d. Minority rights,

e. Ends versus means, process and fairness,

f. Current needs versus obligation to the future generations.

3. Information on methods and issues in civic education, such as:

a. Textbook selection,

b. Teaching techniques such as debates and/or role playing, the use of audio-visual and print media, field trips, and field work,

c. Indirect teaching of citizenship/patriotism through plays and other reconstructed events,

d. Cultural relativism; critical thinking, and patriotic values,

e. Values education in the curriculum,

f. Policy restrictions on teachers, compulsory curricula, State exams, judicial challenges and decisions on admissible content material.

g. School library policies.

Budget Guidelines

The applicant should provide a detailed, line-item budget of project costs. Specific details are provided in the application packet.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. The proposal recommended by these panels will also be reviewed by the Agency's Office of General Counsel, the appropriate geographic area offices, and the budget and contracts offices. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the following criteria:

1. Quality of proposed program and adherence of the proposed activity to the criteria and conditions described above.

2. Cost-effectiveness. The overhead and administrative components of grants, as well as salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should minimize cost-sharing through other private sector support as well as institutional direct funding contributions.

3. Demonstrated ability of the program director to capably deal with foreign scholars participating in government-sponsored study-tours.

4. Provision for program evaluation.

5. Multiplier effect/impact. Proposed programs should strengthen long-term mutual understanding, to include maximum sharing of information and establishment of long-term institutional and individual linkages.

6. Value to U.S.-partner country relations—the potential impact and significance in the partner countries.

7. Proposals should demonstrate potential for program excellence and/or track record of applicant institution. The Agency will consider the past performance of prior grantees and the demonstrated potential of new applicants.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding.

Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process by approximately the end of December, 1991. The funded proposals will be subject to periodic reporting and evaluation requirements.

Dated: September 19, 1991.

William P. Glade,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 91-23858 Filed 10-3-91; 8:45 am]

BILLING CODE 8230-01-M

English Teaching Advisory Panel Meeting

ACTION: Notice of meeting.

SUMMARY: The United States Information Agency announces an open meeting of the English Teaching Advisory Panel on Thursday, November 14, and Friday, November 15, 1991, in room 840 (Thursday) and room 800B (Friday) at USIA Headquarters, 301 Fourth St. SW., Washington, DC. The agenda will include discussion of USIA's world-wide English teaching programming, especially as executed by the English Language Programs Division. The Panel will review and discuss the activities of the Program, Materials Development and Forum branches of the Division. The Special Assistance Program for Central and Eastern European Countries (SEED II) will also be discussed as well as the Agency's English teaching programs and the joint English Language Teaching by Broadcast project. There will be a discussion of the FY-92 budget as well as an open discussion on topics of professional concern affecting the execution of Division responsibilities. The Panel will also discuss the role played in English teaching overseas by other US government agencies, in particular Peace Corps and USAID.

DATES: November 14 and 15, 1991.

ADDRESSES: 301 Fourth Street SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: William Royer at (202) 619-5869.

SUPPLEMENTARY INFORMATION: The November 15 meeting will be closed. In its final session on November 15, in preparing its report to the Director of USIA, the Panel will review information of a proprietary nature, including technical information and financial data, such as salaries. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

Copies of the minutes can be obtained by calling (202) 619-5869.

Dated: September 30, 1991.

William B. Royer,

Chief, English Language Programs Division (E/CE).

[FR Doc. 91–23920 Filed 10–3–91; 8:45 am]

BILLING CODE 8230–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee (TPSC); Initiation of a Review To Consider Designation of Estonia, Latvia, and Lithuania as Beneficiary Developing Countries Under the Generalized System of Preferences (GSP) and Solicitation of Public Comments Relating to the Designation Criteria

AGENCY: Office of the United States Trade Representative.

ACTION: Solicitation of public comment with respect to the eligibility of Estonia, Latvia, and Lithuania for the Generalized System of Preferences (GSP) program.

SUMMARY: The TPSC has initiated a review to determine if Estonia, Latvia and Lithuania meet the designation criteria of the GSP law and should be designated as beneficiaries. GSP is provided for in the Trade Act of 1974, as amended (19 U.S.C. 2461–2465). The designation criteria are listed in subsections 502(a), 502(b) and 502(c) of the Act. Interested parties are invited to submit comments regarding the eligibility of Estonia, Latvia, and Lithuania for designation as GSP beneficiaries. The designation criteria mandate determinations related to participation in commodity cartels, preferential treatment provided by beneficiaries to other developed countries, expropriation without compensation, enforcement of arbitral awards, international terrorism, and internationally recognized worker rights. Other practices take into account include market access for goods and services, investment practices and intellectual property rights.

Comments must be submitted in 14 copies, in English, to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee, 600 17th Street, NW., room 517, Washington, DC 20506. Comments must be received no later than 5 p.m. on October 30, 1991.

Information and comments submitted regarding Estonia, Latvia and Lithuania will be subject to public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted "business confidential" status pursuant to 15 CFR 2003.6. If the document contains business confidential information, 14 copies of a nonconfidential version of the submission along with 14 copies of the confidential version must be submitted. In addition, the document containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the document. The version which does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each and every page (either "public version" or "non-confidential").

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street NW., room 517, Washington, DC 20506. The telephone number is (202) 395–6971. Public versions of all documents related to this review will be available for review by appointment with the USTR Public Reading Room shortly following filing deadlines. Appointments may be made from 10 a.m. to noon and 1 p.m. to 4 p.m. by calling (202) 395–6186.

David Weiss,

Chairman, Trade Policy Staff Committee.

[FR Doc. 91–23959 Filed 10–3–91; 8:45 am]

BILLING CODE 3190–01–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 193
Friday, October 4, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Thursday, October 10, 1991.

PLACE: 2033 K St., NW., Washington, DC, Lower Lobby Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Program Objectives, 4th quarter/FY 1991.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91–24055 Filed 10–2–91; 11:46 am

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Thursday, October 10, 1991.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91–24056 filed 10–2–91; 11:46 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Thursday, October 10, 1991.

PLACE: 2033 K St., N.W., Washington, DC., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Objectives.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91–24057 Filed 10–2–91; 11:46 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 2:00 p.m., Thursday, October 10, 1991.

PLACE: 2033 K St., N.W., Washington, DC., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial Session.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91–24059 Filed 10–2–91; 11:47 am]

BILLING CODE 6351–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:16 p.m. on Tuesday, October 1, 1991, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of certain insured banks.

Matters relating to the Corporation's corporate activities.

Matters relating to certain financial institutions.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., concurred in by Director Robert L. Clarke (Comptroller of the Currency), Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: October 2, 1991.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 91–24115 Filed 10–2–91; 3:16 pm]

BILLING CODE 6714–0–M

RESOLUTION TRUST CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the following change was made to the open agenda of the Resolution Trust Corporation Board of Directors meeting Tuesday, October 1, 1991 in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC:

The following subject was withdrawn from the agenda:

Memorandum re: Final policy regarding resolution of minority depository institution.

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Corporation, at 202–416–7282.

Dated: October 1, 1991.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 91–24058 Filed 10–2–91; 11:47 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 7, 1991.

A closed meeting will be held on Tuesday, October 8, 1991, at 2:30 p.m. An open meeting will be held on Thursday, October 10, 1991, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 8, 1991, at 2:30 p.m., will be:

Litigation matters
Settlement of injunctive actions.
Institution of injunctive actions.
Regulatory matter regarding financial institutions.

The subject matter of the open meeting scheduled for Thursday, October 10, 1991, at 10:00 a.m., will be:

1. Consideration of proposed rule changes submitted by the National Association of Securities Dealers ("NASD") which amend the Rules of Practice and Procedure for the Small Order Execution System ("SOES") by: (1) expanding the definition of the phrase "professional trading account" (SR–NASD–90–59); (2) expanding the definition of "day trading" (SR–NASD–91–17); (3) establishing a 15 second delay between SOES executions to permit market makers to update their quotes (SR–NASD–91–18); and (4) permitting market makers to specify from which firms they consent to receive preferenced orders (SR–NASD–91–26). Also consideration of a petition to institute rulemaking proceedings under Section 19(c) of the Securities Exchange Act of 1934 to delete Section (c)(3)(E) of the Rules of Practice and Procedure for SOES which prohibits order entry firms from entering orders on behalf of a "professional trading account." For further information, please contact Kathleen A. Smith, at (202) 504–2367, or Mark Barracca, at (202) 272–2371.

2. Consideration of a proposed rule change submitted by the National Association of Securities Dealers ("NASD") to establish a two-year pilot program of the NASDAQ International Service, which would expand the hours of NASDAQ to overlap the London market trading hours. The proposed new European trading session would begin at 3:30 a.m. EST, which coincides with the London Stock Exchange opening, and would end at 9:00 a.m. EST, one half-hour before the domestic session (i.e., NASDAQ) open in the United States. For further information, please contact Teresa Fink at (202) 272–2857.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Edward Pittman at (202) 272–2400.

Dated: October 1, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–24068 Filed 10–2–91; 12:05 pm]
BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 56, No. 193
Friday, October 4, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-473; RM-6388]

Radio Broadcasting Services; Prescott Valley, AZ

Correction

In rule document 91-9162 beginning on page 16010, in the issue of Friday, April 19, 1991, on page 16011, in the first column, in the file line at the end of the document, "FR Doc. 91–9164" should read "FR Doc. 91–9162".

BILLING CODE 1505-01-D

FEDERAL TRADE COMMISSION

16 CFR Part 435

Mail Order Merchandise Trade Regulation Rule

Correction

In proposed rule document 91-21641 beginning on page 46133, in the issue of Tuesday, September 10, 1991, make the following correction:

On page 46134, in the 1st column, in **SUPPLEMENTARY INFORMATION**, in the 17th line, "not" should read "now".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91N-0352]

Chelsea Laboratories, Inc.; Proposal To Withdraw Approval of Abbreviated New Drug Applications; Opportunity for a Hearing

Correction

In notice document 91-21483 beginning on page 45991 in the issue of Monday, September 9, 1991, make the following corrections:

1. On page 45992, in the first column, under **ADDRESSES**, in the fifth and sixth lines, "rm.1-23" should appear after "Administration".

2. On page 45993, in the third column, in the third full paragraph, in the first line, "PD998" should read "PD 998". In the 6th and 12th lines, "the" was misspelled.

3. On page 45994, in the first column, correct the following words which were misspelled:

A. In the 5th line from the top,"handwritten".

B. In the 6th and 17th lines from the top, "the".

C. In the 1st full paragraph, in the 11th line, "the" and "records".

D. In the same paragraph, in the 14th line, "the" and"file".

E. In the same paragraph, in the 19th line, "water".

F. In the 2nd full paragraph, in the 7th line, "not".

G. In the 3rd full paragraph, in the 1st line, "it" should read"its".

H. In the same paragraph, begining in the last line, the text should read, "the other firm, or even how the actual color coating was done. Assuming, that Chelsea did follow the other firm's color coating practices for its commercial batches, FDA cannont be reassured by the fact that Chelsea followed manufacturing practices and procedures that were never approved."

BILLING CODE 1505-01-D

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy(OFPP)

Government-Wide Small Business and Small Disadvantaged Business Goals for Procurement Contracts; Policy Letter; Correction; Office of Federal Procurement Policy (OFPP)

Correction

In notice document 91-10463 appearing on page 20482, in the issue of Friday, May 3, 1991, in the second column, in the file line at the end of the document, "FR Doc. 91–1463" should read "FR Doc. 91–14063".

BILLING CODE 1505-01-D

federal register

Friday
October 4, 1991

Part II

Environmental Protection Agency

Notice of Intent to Remove Certain Active Ingredients from Reregistration List D and to Cancel Pesticides Containing Those Ingredients; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP-34017; FRL 3935-5]

Intent to Remove Certain Active Ingredients from Reregistration List D and to Cancel Pesticides Containing Those Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under the 1988 amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), registrants of pesticide products containing specified active ingredients must comply with a number of new responsibilities to ensure that their products become reregistered. Among these responsibilities was submission of specific information and a commitment to support active ingredients contained in their products through reregistration during "Phase Two" of the five phases of reregistration. In addition, registrants that had committed to support an active ingredient contained in their products during Phase Two were required to submit additional information during "Phase Three". The EPA is providing notice of its intent to remove certain unsupported active ingredients from reregistration List D and to cancel all registrations containing such ingredients unless someone assumes the burden of supporting them.

DATES: Reports of commitments to support active ingredients must be received by January 2, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Virginia Dietrich, Special Review and Reregistration Division (H7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Room WF33N4, Crystal Station Number 1, 2800 Crystal Drive, Arlington, VA 22202, (703) 308-8157.

SUPPLEMENTARY INFORMATION: This notice announces EPA's intent to remove 185 active ingredients from Reregistration List D, and to cancel registrations of products containing them unless someone assumes the burden of supporting them.

I. Introduction

This **Federal Register** notice is the third in a series announcing EPA's intent to remove unsupported active ingredients from Reregistration and to cancel products containing these active ingredients. The first, published on July 31, 1990 (55 FR 31164), addressed List B Phase Two unsupported active ingredients. The second, OPP-34012, published elsewhere in this **Federal Register** addresses List C Phase Two unsupported active ingredients as well as those unsupported during Phase Three from both Lists B and C. This notice deals with Phase Two and Phase Three failures from List D. The 185 unsupported active ingredients are listed in Tables 1, 2, and 3 of this notice. Table 1 of this notice lists active ingredients without active registrations that were unsupported in either Phase Two or Three. Table 2 of this notice lists the 58 active ingredients unsupported during Phase Two with 167 corresponding active registrations. Table 3 of this notice lists 11 active ingredients unsupported during Phase Three with 58 corresponding active registrations.

Section 4(d) of FIFRA requires that registrants of pesticides containing active ingredients on Reregistration Lists B, C, or D comply with certain responsibilities during Phase Two of reregistration. These include informing EPA of their intent to seek or not to seek reregistration, identifying the data requirements that apply to their pesticide registrations, identifying the data requirements for which they have already submitted adequate data, and committing to replace missing or inadequate data concerning the active ingredient contained in their products. These actions were required of registrants of products containing ingredients on List D by January 24, 1990.

Failure of a registrant to submit an adequate Phase Two response for a particular registration is grounds for cancellation of the registration pursuant to FIFRA section 4(d)(5). If no registrant of a pesticide containing a particular active ingredient commits to support the reregistration of that active ingredient—i.e, either no registrant commits to seek reregistration of any product containing that active ingredient, or no registrant commits to fulfill all generic data requirements for the active ingredient—section 4(d)(5)(B) authorizes EPA to issue in the **Federal Register** a notice of intent to delete the active ingredient from the list of active ingredients to be reregistered, and to cancel the registrations of all pesticide products containing that ingredient. The proposed action can become effective in 90 days unless, within that time, some person commits to support the reregistration of the active ingredient.

After reviewing Phase Two responses submitted by registrants for List D, the EPA has identified 174 active ingredients which no registrant has committed to support for reregistration. Of these, 116 have no active registrations and are listed in Table 1 of this notice. The remaining 58 are listed in Table 2 of this notice. These active ingredients are now candidates for removal from List D, and all registrations of products containing these active ingredients are candidates for cancellation under section 4(d)(5) of FIFRA unless someone assumes the burden of supporting them.

In Phase Three, registrants that committed to reregister products during Phase Two of reregistration are also required to comply with FIFRA section 4(e) by submitting additional information. EPA did not receive Phase Three Submissions from registrants of pesticides containing 11 active ingredients from List D. Pursuant to FIFRA section 4(e)(3)(A), the failure to submit a Phase Three response is grounds for cancellation of the affected registrations by order without a hearing. EPA considers a registrant's failure to submit a Phase Three response to be tantamount to withdrawal of any commitment made during Phase Two to support the reregistration of an active ingredient. Therefore, under authority of section 4(d) of FIFRA, EPA is providing notice of its intent to delist these now unsupported active ingredients from List D and to cancel all products containing them unless someone assumes the burden of supporting them.

The cancellation candidates listed in Tables 2 and 3 of this notice include some for which registrants have reported their intent to seek reregistration and claimed a "generic data exemption." The exemption is from having to provide data concerning the pesticidal active ingredient which are already being provided by the registrant of the source of the active ingredient. Such an exemption can be granted only if the product uses a purchased, EPA-registered source of active ingredient, and only if the registered source agrees to supply, and supplies, the necessary data. Since the registrant(s) of the identified source(s) of the active ingredients listed in this notice did not commit to reregister the ingredient, an exemption is no longer appropriate. Therefore, those registrants who claimed a generic data exemption who wish to prevent cancellation of their products in Table 2 of this notice must either commit to support the active ingredient for reregistration or persuade someone else to do so.

Once an active ingredient is removed from List D, any person wishing to bring the pesticide back on the market would need to apply to EPA for a "new chemical" registration. Such a registration generally would not be

approved until all applicable data requirements are satisfied.

II. Intent to Remove Unsupported Ingredients Without Active Registrations from Reregistration List D

The 116 unsupported active ingredients listed in Table 1 of this notice are not found in any currently registered products. Product registrations which once contained these active ingredients have previously been amended to remove the ingredient from the formula or have been cancelled for other reasons. Since there are no remaining registrations containing them, and no person can therefore acquire the rights to a registration containing the ingredient, these ingredients will be removed from List D effective 90 days after publication of this notice in the **Federal Register** and will not be considered further for reregistration. These ingredients are listed in the following Table 1:

TABLE 1.—UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D: INGREDIENTS WITH NO ACTIVE REGISTRATIONS

Case No.	Chemical name	CAS Registry No.
4002	Acetone	67-64-1
4003	tert-Butanol	75-65-0
4003	Propyl alcohol	71-23-8
4004	Cetyl alcohol	36653-82-4
4004	Lauryl alcohol	112-53-8
4004	Fatty alcohols (65% C12, 26% C14, 8% C16, 1% C10)	67762-41-8
4004	Fatty alcohols (55.10% C10, 42.88% C8, 1.01% C6, 1.01% C12)	68603-15-6
4005	Ethyl acetate	141-78-6
4005	n-Pentyl valerate	2173-56-0
4005	n-Tetradecyl formate	5451-63-8
4006	Diethanolamine dodecylbenzenesulfonate	26545-53-9
4006	Ethanolamine dodecylbenzenesulfonate	26836-07-7
4006	Sodium methylundecyl benzene sulfonate	27987-00-4
4006	Sodium alkyl* benzene sulfonate *(100% C9)	26856-61-1
4008	Aluminum powder	7429-90-5
4008	Aluminum chloride	7446-70-0
4010	Aquashade	No CAS No.
4011	Malachite green	569-64-2
4013	Sodium benzoate	532-32-1
4014	Sodium dihydroxyethylglycine	17123-43-2
4014	Nitrilotriacetic acid, trisodium salt	5064-31-3
4016	1,3-Butylene glycol	107-88-0
4017	Calcium cyanamide	156-62-7
4020	2,3,6-Trichlorophenylacetic acid	85-34-7
4020	2,3,6-Trichlorophenylacetic acid, sodium salt	2439-00-1
4020	2,3,6-Trichlorophenylacetic acid, dimethylamine salt	69462-13-1
4020	Ammonium 2,3,6-trichlorophenylacetate	53404-90-3
4024	Ammonium citrate	7632-50-0
4026	Basic copper III - zinc sulfate complex	55072-57-6
4026	Copper salts of the acids of tall oil	61789-22-8
4026	Copper linoleate	7721-15-5
4026	Copper as elemental from copper - etidronic acid complex	50376-91-5
4026	Copper dehydroabietyl ammonium 2-ethylhexanoate	53404-24-3
4026	Cupric ferric subsulfate complex	12168-20-6
4026	Copper ethylenediaminetetraacetate	12276-01-6
4031	2-(2-Ethoxyethoxy)ethyl 2-benzimidazole carbamate	62732-91-6
4032	Ethanolamine	141-43-5

TABLE 1.—UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D: INGREDIENTS WITH NO ACTIVE REGISTRATIONS—Continued

Case No.	Chemical name	CAS Registry No.
4035	Disodium di(2-hydroxyethyl)ethylenediaminediacetate	74988-17-3
4036	Ethylenediaminetetraacetic acid, trisodium salt	150-38-9
4036	Potassium ethylenediaminetetraacetate	7379-27-3
4036	Tetra(monoethanolamine) ethylenediaminetetraacetate	53404-52-7
4036	Disodium ethylenediaminetetraacetate	139-33-3
4036	Ammonium ethylenediaminetetraacetate	7379-26-2
4037	Sodium *N*-(2-hydroxyethyl)ethylenediaminetriacetate	53404-54-9
4039	O,O-Dimethyl O-(*p*-(dimethylsulfamoyl)phenyl)phosphorothioate	52-85-7
4041	3,5-Dibromo-3'-(trifluoromethyl)salicylanilide	4776-06-1
4044	Glycerol	56-81-5
4045	Sodium glycolate	2836-32-0
4046	*p*-(N,*N*-Dichlorosulfamoyl)benzoic acid	80-13-7
4047	8-Quinolinol benzoate	7091-57-8
4047	8-Quinolinol citrate	134-30-5
4047	8-Quinolinol	148-24-3
4047	8-Quinolinol sulfate	134-31-6
4048	Sodium bicarbonate	144-55-8
4049	Calcium chlorate	10137-74-3
4050	Magnesium fluosilicate	16949-65-8
4050	Zinc fluosilicate	16871-71-9
4051	Calcium chloride	10043-52-4
4052	Sodium nitrite	7632-00-0
4053	Sodium tripolyphosphate	7758-29-4
4053	Tetrasodium pyrophosphate	7722-88-5
4053	Potassium phosphate, tribasic	7778-53-2
4053	Tetrapotassium pyrophosphate	No CAS No.
4054	Potassium polysulfide	37199-66-9
4055	Sodium sulfate	7757-82-6
4055	Magnesium sulfate	7487-88-9
4056	Sulfurous acid, sodium salt	10579-83-6
4057	Potassium thiosulfate	10233-00-8
4057	Ammonium thiosulfate	7783-18-8
4059	4-Methyl-2-pentanone	108-10-1
4059	Diisobutyl ketone	108-83-8
4060	Isopropyl lanolin	63393-93-1
4060	Ethoxylated lanolin	61790-81-6
4061	Magnesium lauryl sulfate	3097-08-3
4061	Ammonium lauryl sulfate	2235-54-3
4062	Malic acid	6915-15-7
4064	Potassium bisulfate	7646-93-7
4065	Potassium hydroxide	1310-58-3
4065	Calcium oxide	1305-78-8
4066	Calcium hydroxide	1305-62-0
4067	Nickel sulfate hexahydrate	10101-97-0

TABLE 1.—UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D: INGREDIENTS WITH NO ACTIVE REGISTRATIONS—Continued

Case No.	Chemical name	CAS Registry No.
4068	Norea (3-(hexahydro-4,7-methanoindan-5-yl)-1,1-dimethylurea	18530-56-8
4070	Ammonium oxalate	1113-38-8
4071	Methyl 4-hydroxybenzoate	99-76-3
4071	Propyl 4-hydroxybenzoate	94-13-3
4071	Butyl 4-hydroxybenzoate	94-26-8
4077	Polyethylene	9002-88-4
4078	Calcium propionate	4075-81-4
4078	Sodium propionate	137-40-6
4080	Salicylic acid	69-72-7
4081	Calcium silicate	10101-39-0
4082	Silver fluoride	7775-41-9
4083	Oleic acid	112-80-1
4083	Ammonium oleate	544-60-5
4083	Sodium oleate	143-19-1
4083	Potassium ricinoleate	7492-30-0
4084	2-Chloroallyl diethyldithiocarbamate	95-06-7
4086	Sulfur dioxide	7446-09-5
4088	2,3,6-Trichlorobenzoic acid	50-31-7
4088	2,3,6-Trichlorobenzoic acid and related polychlorobenzoic acids, dimethylamine salt of	3426-62-8
4088	2,3,6-Trichlorobenzoic acid, sodium salt	2078-42-4
4089	Sodium trichloroacetate	650-51-1
4090	Tetrachlorophenols	25167-83-3
4090	Tetrachlorophenols, sodium salt	25567-55-9
4090	Tetrachlorophenols, alkyl* amine salt*(as in fatty acids of coconut oil)	No CAS No.
4090	Tetrachlorophenols, potassium salt	53535-27-6
4091	3',6'-Dihydroxy-2',4',5',7'-tetraiodospiro(isobenzofuran-1(3H),9'-(9H) xanthen -3-one,disodium salt	16423-68-0
4091	3',6'-Dihydro-2',4',5',7'-tetraiodospiro(isobenzofuran-1(3H),9'-(9H) xanthen-3-one	15905-32-5
4093	Potassium xylene sulfonate	30346-73-7
4093	Toluene sulfonic acid	104-15-4
4094	Turkey red oil	8002-33-3
4094	Turkey red oil, sodium salt	68187-76-8
4095	Undecylenic acid	112-38-9
4097	Linseed oil	8001-26-1
4098	Xylenol	1300-71-6
4099	Zinc sulfate, basic	68813-94-5

III. Intent to Remove Ingredients Unsupported During Phase Two from Reregistration List D, and to Cancel Active Registrations Containing These Ingredients

Of the 174 List D active ingredients not supported in Phase Two, 58 occur in 167 current registrations under section 3 or section 24(c) of FIFRA. These active ingredients and all associated registrations are listed in Table 2 of this notice. The EPA-assigned company number for each registrant appears to the left of each product name entry as the first element in each section 3 registration number or as a separate entry preceding each section 24(c) registration number. The names and addresses of these registrants, in order by company number, appear in Table 4 of this notice.

Ninety days after publication of this notice the ingredients on Table 2 of this notice will be removed from List D, and all associated registrations will be cancelled, unless within that period someone takes advantage of the process set forth in section 4(d)(5) of FIFRA and described in Unit V of this document for preserving these registrations. Such support may come from any current registrant or from another party who has acquired the rights to the affected registration(s).

TABLE 2.—PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D AND REGISTRATIONS TO BE CANCELLED

Case No.	Chemical Name	CAS Registry No.	Registration No.	Product Name
4003	Methyl alcohol	67-56-1	006035-00033	Sani-Squad
			006035-00047	Vinco Formaldehyde Solution
			044797-00002	Surflo-B17
			044797-00008	Surflo-B19
4004	Fatty alcohols (54.5% C10, 45.1% C8, 0.4% C6)	No CAS No.	002302-00013	Emtrol Tobacco Sucker Control Agent
			005905-00484	Royaltac (R-M Contact Tobacco Sucker Control Agent)
			034704-00696	Clean Crop Tobacco Sucker Control
4005	Amyl acetate	628-63-7	011694-00052	Dymon SWH Wasp & Hornet Spray
4005	Dibutyl succinate	141-03-7	006720-00375	Omnicide N-T-X Concentrate
4006	Potassium dodecylbenzenesulfonate	27177-77-1	005813-00032	Pine Det Pine Odor Disinfectant
			022559-00001	Pineway Disinfectant Cleans Deodorizes
4006	Triethanolamine dodecylbenzenesulfonate	27323-41-7	005590-00135	Disinfectant Foam Cleaner for Hospital Use Germicidal
4010	Acid Blue 9	2650-18-2	033068-00001	Aquashade
4010	Acid Yellow 23	1934-21-0	033068-00001	Aquashade
4012	1,2,3-Propanetriol, mono(4-aminobenzoate)	29593-08-6	000499-00338	P/P Outdoor Lotion
			000499-00340	P/P Outdoor Lotion
4013	Benzyl alcohol	100-51-6	004972-00046	Protexall's Lice Control
			029909-00005	Cardinal Pediculosis Control
			033764-00001	Kill-Lice Brand Pediculosis Control
			051793-00034	Elite Lice Shampoo
4021	Chlorinated trisodium phosphate	11084-85-8	004524-00044	Saneze
			034688-00071	Chlorinated Trisodium Phosphate(pink
4023	Chlorine dioxide	10049-04-4	009150-00002	Anthium Dioxcide 5% Aqueous Stabilized Chlorine Dioxide
			009150-00003	Camebon 200 2% Aqueous Stabilized Chlorine Dioxide
			009804-00001	Oxine
			009804-00003	Odorid
			009804-00005	Purogene
			010248-00001	Biox 200 Stabilized Chlorine Dioxide Solution
			010589-00003	Cryocide Disinfecting Concentrate
			010589-00004	Cryocide 20
			021164-00003	Dura Klor
			059055-00001	Duozon 100-L
4025	Cuprous and cupric oxide, mixed	82010-82-0	000829-00284	Fasco DE-KE-GO Pruning Compound No 628
			001386-00499	Unico Tomato Potato & Vegetable Dust contains Sevin Copper
			001386-00554	Unico "51" Dust Copper - Rotenone
			050383-00011	Lucky Strike Crop Maker
			051036-00015	Microsperse Copper 53
			060061-00032	Woolsey Tradewinds Anti-Fouling Bottom Paint 706 Brilliant Green
			060061-00039	Woolsey Neptune Anti-Fouling 712 Royal Blue
			060061-00040	Woolsey Neptune Anti-Fouling 714 Royal Green
			060061-00067	Woolsey Heavy Duty Vinyl Anti-Fouling 905 Red
			060061-00070	Woolsey Heavy Duty Tropical Anti-Fouling 931 Red
4026	Copper oleate	1120-44-1	007401-00250	Ferti-Lome Powdery Mildew Control
			007401-00352	Ferti-Lome Black Spot & Powdery Mildew Control
			007401-00353	Ferti-Loma Professional Rose Spray
			007401-00354	Ferti-Lome Rose Spray
			007401-00369	Ferti-Lome Universal Spray
			011037-00015	Hacienda Liquid Copper Fungicide Spray
			058868-00007	KXL - A Combination Year Round Spray-An Insecticide Fungicide
4027	m-Cresol	108-39-4	040230-00002	Gallex
4028	Dextrin	9004-53-9	000192-00049	Dexol Gopher Gasser
4033	Ethylene glycol	107-21-1	058868-00007	KXL - A Combination Year Round Spray-An Insecticide Fungicide
4034	1,2-Ethanediamine	107-15-3	001448-00013	Busan 882
			001448-00050	Nabe
			009800-00011	CWT-BB9
4036	Ethylenediaminetetraacetic acid	60-00-4	008123-00026	Mint Hospital Type Disinfectant & Cleaner
			008325-00018	Heavy Duty Cleaner & Disinfectant

TABLE 2.—PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D AND REGISTRATIONS TO BE CANCELLED—Continued

Case No.	Chemical Name	CAS Registry No.	Registration No.	Product Name
4036	Ethylenediaminetetraacetic acid, sodium salt	17421-79-3	000334-00110	Vip Germicidal Liquid Detergent
			000421-00389	Varseptic Disinfectant Cleaner Foaming Action
			001421-00104	Mintex Mint Disinfectant Coef. 10
			008428-00003	SC-725 Cleaner, Sanitizer, Disinfectant
4036	Tripotassium ethylenediaminetetraacetate	17572-97-3	009647-00014	Masury-Columbia Spring Day Quaternary Germ. Cleaner
			009647-00029	Spring Day Rtu
4036	Tetrapotassium ethylenediaminetetraacetate	5964-35-2	004330-00001	Waverly Anti-Rust Surgisept
4037	Trisodium (2-hydroxyethylethylenediaminetriacetate	139-89-9	001459-00103	All-N-One Cleaner Disinfectant Deodorizing Wax Finish
			052474-00002	Algae-Cide No. 5
4042	Trichloromonofluoromethane	75-69-4	000499-00131	Whitmire's Wasp Stopper for Wasps
			000499-00207	Whitmire Wasp Stopper II
			000499-00215	Wasp Stopper III
			000499-00224	Whitmire Wasp-Stopper CF
			000499-00240	Whitmire PT 515 Wasp-Freeze II
			000499-00264	Whitmire PT 515 Wasp-Freeze II
			009143-00014	Coldkill Wasp and Hornet Long Range Jet Spray
			011715-00126	Freez-Hit Wasp & Hornet Spray
			013283 GA-89-0005	Whitmire Wasp-Stopper CF
			013283 LA-89-0016	Whitmire Wasp-Stopper CF
			013283 MS-89-0017	Whitmire Wasp-Stopper CF
			013283 TN-89-0008	Whitmire Wasp-Stopper CF
4042	Dichlorodifluoromethane	75-71-8	000499-00131	Whitmire's Wasp Stopper for Wasps
			000499-00207	Whitmire Wasp Stopper II
			000499-00215	Wasp Stopper III
			009143-00014	Coldkill Wasp and Hornet Long Range Jet Spray
			011715-00126	Freez-Hit Wasp & Hornet Spray
4043	Gluconic acid	526-95-4	005664-00004	Sterlyite
4050	Sodium fluosilicate	16893-85-9	000802-00507	Lilly's Go West Meal
			000802-00510	Lilly Go West Slug Pellets
4051	Sodium chloride	7647-14-5	000778-00091	Virkon S
			007742-00008	King Of All Sewer Kleener & Root Destroyer
			017868-00001	Rover's Mange Medicine for Dogs
4053	Sodium phosphate (Na2H(PO4))	7558-79-4	001421-00159	Sentry Pink Chlor No. 4
			006484-00001	Ace-M-All Sanitizer
4053	Trisodium phosphate	7601-54-9	000151-00014	Pioneer PC-30 Disinfectant Cleaner "New Improved"
			000264-00512	Chlorinated Trisodium Phosphate
			000402-00094	Institutional Hilco-Pride
			000602-00168	Purina Chlorinated Cleaner
			001043-00098	Syn-Sol Cleaner and Sanitizer
			001190-00014	Peck's Pexchlor
			001317-00038	Thrifty-Chlor A Chlorine Bearing Disinfectant Bactericide
			001677-00019	Mikro-Chlor
			002686-00001	Cleaner-Sanitizer
			004389-00070	Master Cax A Heavy Duty Cleaner Sanitizer Deodorizer
			004462-00015	Beaver Chlor Sanitizer
			004524-00021	Monarch So-Lide
			005736-00002	Dubois Chemicals Super-Klor
			005736-00009	Dubois Chemicals Kloro-Sprex
			005736-00037	Du Klor
			005768-00009	805 Sanitizer Cleaner for Soft Ice Cream Freezers
			005870-00013	Chlorex Sanitizing Cleaner
			005870-00017	Texo LP 93 Sanitizing Cleaner
			008898-00014	Kelite Alklor
			009152-00021	Tri-Chlor
			010118-00001	Whizzer Mat Cleaner & Disinfectant
			010183-00006	Chlorisol
			010508-00003	Cd-610 the All-Purpose Sanitizer
			010634-00002	Alpha San 100
			011741-00012	Davies "Dairy-San"
			035495-00007	Halo-540
			045447-00007	Clenesco Chlorinated Cleaner
4053	Monosodium phosphate	7558-80-7	006198-00003	B-T-F Chloromelamine Disinfectant
4055	Potassium tetrathionate	13932-13-3	000059-00192	Thionium Shampoo with Lindane
4057	Calcium thiosulfate	10124-41-1	003442-00768	Liquid Lime-Sulphur 32 Degrees Baume
			002935 WA-80-0019	Wilbur-Ellis Lime Sulfur Solution
			051753 WA-84-0014	Whitestone Lime Sulfur
4060	Lanolin	8006-54-0	004758-00029	Holiday Lustre Shampoo

TABLE 2.—PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D AND REGISTRATIONS TO BE CANCELLED—Continued

Case No.	Chemical Name	CAS Registry No.	Registration No.	Product Name
			004758-00134	Holiday Concentrated Shampoo for Dogs and Cats
4061	Triethanolamine lauryl sulfate	139-96-8	000499-00141	Dog-Stopper
			004758-00134	Holiday Concentrated Shampoo for Dogs and Cats
4069	Sulfonated oleic acid, sodium salt	68443-05-0	000833-00065	Afco Low Foam Tops
4072	Potassium peroxymonosulfate	10058-23-8	000778-00091	Virkon S
			004829-00108	Bromine Treatment for Spas'n Hot Tub Primer and Catalyst
			008791-00024	E-Z Care Activator & Shock and E-Z Care Bromine Salts
			012465-00047	Aquamaid Spa Prep and Spa Boost
4073	Sodium petroleum sulfonate	No CAS No.	034704-00598	Dendrol Dormant Spray Oil
4075	Acrylic polymer resins	9003-01-4	000004-00136	Bonide Rabbit/Deer Repellent & Bulb Saver
4076	Polyisobutylene	9003-27-4	000432-00743	Roost No More Bird Repellent Liquid
4080	Methyl salicylate	119-36-8	000421-00016	Winter-Phene
			001203-00007	Foremost 4510 Minteffect Germicide
			001421-00044	Mint Disinfectant Coef. 5
			001683-00026	Winta-Dis Disinfectant
			001685-00121	All States Mint Fragrance Disinfectant
			002230-00043	Pan-A-Sol
			004000-00066	Sani-Mop-Mist Bacteriostatic Mop Treatment
			005185-00236	Bio-Guard Mf-44
			005332-00007	Scent-Off Twist-Ons
			005332-00008	Scent Off Pellets Dog & Cat Repellent
			005747-00014	Aro Mint Disinfectant
			006186-00041	Winterfect I
			007246-00014	Pep O Mint 15 Disinfectant Deter Sanitizer Deo.
			008047-00001	Poly Mint
			008123-00026	Mint Hospital Type Disinfectant & Cleaner
			008503-00010	Green Genie Bowl Cleaner with Mint Fragrance
			032969-00002	Mint 7 Disinfectant Deodrizer Cleaner
			056560-00001	T S T Waste Holding Tank Cleaner-Deodorant
4082	Silver chloride	7783-90-6	001258-01097	Aqualux Water Processor with Bacteriostatic Action, Mode
4082	Silver thiuronium acrylate co-polymer	53404-00-5	002829-00081	Durotex GPM Resin A
4083	Potassium myristate	13429-27-1	002311-00004	GLD Germicidal Liquid Detergent
4087	Antimony potassium tartrate	28300-74-5	006720-00299	Rodenticide Zinc Phosphide
4089	Trichloroacetic acid	76-03-9	001769-00298	HK-80 Weed Killer
4093	Sodium xylenesulfonate	1300-72-7	003635-00210	Oxford 1220 Bactericidal Detergent
			003635-00211	Oxford 1217
			005664-00004	Sterlyite
			049403-00005	Sanco-Phene
			049403-00006	Hospital Broad Band
4097	Oil of anise	8007-70-3	000257-00143	Medicated Non-Toxic Pet Shampoo
			049407-00001	Rescue! Dog & Cat Repellent
4097	Cottonseed oil	8001-29-4	006959-00034	Cessco Aerosol Insecticide
			058866-00007	KXL - A Combination Year Round Spray-An Insecticide Fungicide
4097	Hydrogenated castor oil	8001-78-3	001621-00016	Bird Tanglefoot Pressurized
			005602-00037	Hub States Bird Repellent
4097	Sesame oil	8008-74-0	000087-00001	Aerosect the Wonder Insecticide
			001439-00090	Pyrixcide
			004758-00089	Holiday True Fog
			004974-00001	Hargate
4098	2,4-Xylenol	105-67-9	040230-00002	Gallex
4099	Zinc sulfate	7733-02-0	010699-00001	Moss -B- Ware
4100	Zirconium oxide	1314-23-4	000499-00338	P/P Outdoor Lotion
			000499-00340	P/P Outdoor Lotion
4109	cis-7,8-Epoxy-2-methyloctadecane	29804-22-6	005887-00139	Gypsy Moth Monitor Trap
			005887-00140	Black Leaf Gypsy Moth Insecticide Strip
4111	7,11-Hexadecadien-1-ol, acetate (9CI)	50933-33-0	056336-00001	Check-Mate
4115	Periplanone B	61228-92-0	008730-00035	Lure N Kill Roach and Ant Killer Insecticidal Baits With Sex Lure

TABLE 2.—PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D AND REGISTRATIONS TO BE CANCELLED—Continued

Case No.	Chemical Name	CAS Registry No.	Registration No.	Product Name
4120	3-chloro-1,2-propanediol	96-24-2	042882-00001	Epibloc

IV. Intent to Remove Ingredients Unsupported During Phase Three from Reregistration List D and to Cancel Active Registrations Containing These Ingredients

The eleven List D active ingredients not supported in Phase Three occur in 58 current registrations. These active ingredients and all associated registrations are listed in Table 3 of this notice. The EPA-assigned company number for each registrant appears to the left of each product name entry as the first element in each section 3 registration number or as a separate entry preceding each section 24(c) registration number. Names and addresses of these registrants appear in Table 4 of this notice.

Ninety days after publication of this notice the ingredients on Table 3 of this notice will be removed from List D, and all associated registrations will be cancelled unless within that period someone takes advantage of the process set forth in section 4(d)(5) of FIFRA and described in Unit V of this document for preserving these registrations. Such support may not come from registrants who were responsible for submission of the original Phase Three response. However, commitments to support reregistration will be accepted from registrants who previously maintained a valid generic data exemption for their products, or other parties who acquire the rights to the affected registrations. The following Table 3 identifies the Phase Three unsupported active ingredients to be removed from Reregistration List D and those registrations which will be cancelled.

TABLE 3.— PHASE 3 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D AND REGISTRATIONS TO BE CANCELLED

Case No.	Chemical Name	CAS Registry No.	Registration No.	Product Name
4026	Copper 2-ethylhexanoate	22221-10-9	034688-00021	Intercide Copper Octoate 10%
			034688-00025	Intercide Copper Octoate 2% Wood Preservative
			034688-00026	Intercide Copper Octoate 2% Wood Preservative-Water Repellent
			034688-00027	Intercide Copper Octoate 2% Wood Preservative-WD
			034688-00028	Intercide Copper Octoate 2% Wood Preservative-Water Dispersed
			034688-00029	Intercide Copper Octoate 2% Wood Preservative-WR
			034688-00039	Intercide Copper Octoate 1% Wood Preservative-Water Repellent
			034688-00040	Intercide Copper Octoate 1% Brown Wood Preservative
			034688-00041	Intercide Copper Octoate 1% Wood Preservative-WR
4045	Glycolic acid	79-14-1	000352-00304	Du Pont Hydroxyacetic Acid 70% Solution Technical
			000421-00335	Varley Porcelain Cleaner Super Safe for Porcelain and Metal
			000421-00336	Clear Type Porcelain and Metal Cleaner
			001043-00045	Vestal LPH Germicidal Detergent 1 Stroke System
			001072-00011	Surge K. O. Dyne Iodine Detergent Sanitizer Udder Wash
			001124-00069	Blu-Lite Germicidal Hospital Type Acid Cleaner
			004959-00037	Tamed Iodine Supersan Conc. Detergent-Germicide
			005741-00023	Foamy Q & A
			008370-00004	Fos-4 Bowl Cleaner
			008405-00003	FS 102 Sanitizer & Udderwash
			034810-00015	Wexford Viru-Cide
			044215-00158	Best 4 Servis Brand Sani-Udder Detergent and Sanitizer
4050	Ammonium fluosilicate	16919-19-0	004708-00002	Laidlaw U-San-O Mothproofing Spray
			004816-00240	Dri-Die Insecticide
			004816-00255	Drione 79700 Insecticide
			004816-00692	Double-Action Flea & Tick Powder II
			006720-00376	Super Omni Dust
			006720-00389	Superior Dri-Die
			009075-00001	Penguin-Down Die Rite
			047000-00030	Economy Pet Powder
4051	Magnesium chloride	7786-30-3	038754 CA-76-0139	WMC Flaked Magnesium Chloride Hexahydrate
4063	Menthol	1490-04-6	000270-00220	Farnam Cat-Away Indoor Cat Repellent
			000270-00221	Farnam Dog-Away Indoor Dog Repellent
			000270-00222	Farnam Dog-Away Outdoor Dog Repellent
			036638-00019	Tra-Kill
			061260-00001	Menthol
			036638 CO-89-0004	Tra-Kill Tracheal Mite Killer
4066	Sodium sesquicarbonate	533-96-0	032240-00004	Crop Cure Cut'n Dry A Hay Conditioner
4068	Potassium Carbonate	548-08-7	032240-00004	Crop Cure Cut'n Dry a Hay Conditioner
4097	Allyl isothiocyanate	57-06-7	000270-00220	Farnam Cat-Away Indoor Cat Repellent
			000270-00221	Farnam Dog-Away Indoor Dog Repellent

TABLE 3.— PHASE 3 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D AND REGISTRATIONS TO BE CANCELLED—Continued

Case No.	Chemical Name	CAS Registry No.	Registration No.	Product Name
			000270-00222	Farnam Dog-Away Outdoor Dog Repellent
			000270-00234	Chaperone Liquid Dog and Cat Repellent
			000270-00236	Chaperone Repel-o-Rope
			005332-00007	Scent-Off Twist Ons
			005332-00008	Scent-Off Pellets Dog & Cat Repellent
			061966-00001	Insect Control
			061966-00002	Carpet Freshner with Pet Guard
			061966-00003	Outdoor Animal Repellent
4097	Oil of lemongrass	8007-02-1	000270-00220	Farnam Cat Away Indoor Cat Repellent
			000270-00221	Farnam Dog Away Indoor Dog Repellent
			000270-00222	Farnam Dog Away Outdoor Dog Repellent
			000270-00234	Chaperone Liquid Dog and Cat Repellent
			000270-00236	Chaperone Repel-o-Rope
			005332-00007	Scent-Off Twist Ons
			005332-00008	Scent Off Pellets Dog & Cat Repellent
4097	Oil of eucalyptus	8000-48-4	000270-00174	Nature's Own Herbal Flea Repellent Collar
			000270-00184	Nature's Own Herbal Flea Repellent Powder II
			000270-00185	Nature's Own Herbal Flea Repellent Powder
			000270-00187	Nature's Own Herbal Flea Repellent Powder-P
			042443-00001	Herbal Flea Collar
			048205-00001	Herbal Oil Flea & Tick Repellent
			062811-00001	Gloh 100% Natural Reflective Flea and Tick Collar
4104	Nosema locustae	No CAS No.	036488-00003	Grasshopper Attack
			036488-00007	Mormon Cricket Spore
			046149-00001	Nolo BB Concentrate
			046149-00002	Nolo-Bait
			054735-00003	Semaspore
			054735-00005	Semaspore Bait
			060245 MT-89-0004	Hopper Bait II

V. Procedures for Preserving Registrations of Unsupported Ingredients

Section 4(d)(5) of FIFRA defines a process for preventing the removal from the reregistration process of active ingredients originally unsupported in Reregistration Phase Two, and for preserving the registration of products containing such ingredients. Although FIFRA does not specifically allow registrants who failed to submit an adequate Phase Two response (those listed in Table 2 of this notice) to cure their deficiency at this time, the EPA has decided to allow such registrants one final opportunity to retain their registrations by now supplying a commitment to support the reregistration of their products.

EPA considers a lack of response during Phase Three to mean that registrants of products listed in Table 3 of this notice have withdrawn their original commitment to support reregistration. However, unlike failure to submit Phase Two responses, EPA is not offering another opportunity to current registrants who were responsible for submission of the original Phase Three response to retain their registrations. Registrations may be transferred to potential data-supporters during the 90-day comment period.

Anyone who wishes to support an active ingredient proposed for delisting in this notice must:

1. Within 90 days of publication of this notice, obtain the rights to a product listed in Table 2 or 3 of this notice—i.e., with the agreement of the current registrant, submit to EPA in conformance with 40 CFR 152.135, an application for a transfer of an existing active registration.

2. Within 90 days of publication of this notice, provide to EPA the information listed in FIFRA section 4(d)(2) entitled "Notice of Intent to Seek or Not to Seek Reregistration".

3. Within 150 days of publication of this notice, comply with the provisions of section 4(d)(3), entitled "Missing or Inadequate Data", and with those of section 4(e)(1) entitled "Information About Studies." The registrant must also pay any fee prescribed by subsection 4(i)(1).

Anyone contemplating a commitment to support an ingredient listed in Tables 2 or 3 of this notice should consider carefully the full range of responsibilities involved in supporting an ingredient through reregistration. All gaps in the supporting data base must eventually be filled on a strict schedule and subject to EPA monitoring of progress.

Guidance and forms for Phase Two responses and payments of the reregistration fees may be obtained from the EPA contact person listed near the beginning of this notice. Small businesses and certain other registrants may be eligible for waivers of reregistration fees. In general, because of the variability and potential complexity of the reregistration process, anyone considering supporting one of these ingredients is strongly advised to discuss the circumstances of the individual case with the EPA before making a formal commitment.

Ninety days after publication of this notice, any active ingredients listed in Tables 2 and 3 of this notice for which the above procedure is not satisfactorily under way will be removed from their respective Reregistration Lists, and all registrations containing those ingredients will be cancelled by order and without hearing. If the requirements in Unit V.1, 2, and 3 of this procedure are not satisfied within the specified timeframes, any affected ingredient will also be removed from Reregistration List D, and all registrations containing it will be cancelled.

The names and addresses of these registrants, in order by company number, appear in the following Table 4:

TABLE 4.—REGISTRANTS OF PRODUCTS CONTAINING ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D

EPA Company No.	Registrant Name and Address
000004	Bonide Chemical Co., Inc., 2 Wurz Ave., Yorkville, NY 13495.
000086	Coopers Animal Health, Inc., 1201 Douglas Ave., Kansas City, KS 66103.
000087	Pennsylvania Engineering Co, 1119-21 N. Howard St., Philadelphia, PA 19123.
000151	Pioneer Chemical Co., 1315 W. Florence Ave., Los Angeles, CA 90044.
000192	Dexol Industries, 1450 W. 228th St., Torrance, CA 90501.
000257	Grow Group, Inc., 1354 Old Post Rd., Havre De Grace, MD 21078.
000264	Rhone-Poulenc Ag Co., Box 12014, Research Triangle Park, NC 27709.
000334	Hysan Corp. (Iara Ofc), c/o Dr. Kyle H. Sibinovic Of Shaldra Biotest, Inc., Box 2610, W. Bethesda, MD 20817.
000352	E. I. du Pont DeNemours & Co., Inc., Agricultural Products Department, Box 80038, Wilmington, DE 19880.
000402	Hill Mfg. Co., Inc., 1500 Jonesboro Rd., S.E., Atlanta, GA 30315.
000421	J.F. Daley International, Ltd., d/b/a James Varley & Sons, Inc., Box 13897, St Louis, MO 63147.
000432	Roussel Bio Corp., 170 Beaver Brook Rd., Lincoln Park, NJ 07035.
000499	Whitmire Research Laboratories, Inc., 3568 Tree Ct., Industrial Blvd., St Louis, MO 63122.
000602	Purina Mills, Inc., Box 66812, St Louis, MO 63166.
000778	A. H. Robins Co. Inc., Box 518, Fort Dodge, IA 50501.
000802	Chas H. Lilly Co., 7737 N.E. Killingsworth, Portland, OR 97218.
000829	Southern Agricultural Insecticides, Inc., Box 218, Palmetto, FL 34220.
000833	Alex C. Fergusson, Inc., Spring Mill Dr., Frazer, PA 19355.
001043	Calgon Vestal Laboratories, Division of Calgon Corp., Box 147, St Louis, MO 63166.
001072	Babson Brothers Co., Chemical Division, 1354 Enterprise Drive, Romeoville, IL 60441.
001124	Purex Industrial, Turco Purex Industrial Corp., 7300 Bolsa Ave., Westminster, CA 92684.
001190	J.F. Daley International, Ltd., Pecks Products Division, 1200 Switzer Ave., St Louis, MO 63147.
001203	Delta Foremost Chemical Corp., 3915 Air Park St., Memphis, TN 38130.
001258	Olin Corp., Box 586, Cheshire, CT 06410.
001317	AN-FO Mfg. Co., 3129 Elmwood Ave., Box 7311, Oakland, CA 94601.
001386	Universal Cooperatives Inc., Box 460, 7801 Metro Parkway, Minneapolis, MN 55440.
001421	Dettelbach Chemical Co., Division of Hysan Corp., 4309 South Morgan Street, Chicago, IL 60609.
001439	Tifa Limited, c/o Sughrue Mion Zinn Macpeak & Seas, 2100 Pennsylvania Ave., Washington, DC 20037.
001448	Buckman Labs Inc., 1256 Mclean Blvd., Memphis, TN 38108.
001459	The Bullen Companies, Box 37, Folcroft, PA 19032.
001621	Tanglefoot Co., 314 Straight Ave., S.W., Grand Rapids, MI 49504.
001677	Ecolab Inc., 370 Wabasha St., Ecolab Center, St Paul, MN 55102.

TABLE 4.—REGISTRANTS OF PRODUCTS CONTAINING ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D—Continued

EPA Company No.	Registrant Name and Address
001683	Harley Chemical, Inc., S.E. Co 17th & Federal St., Camden, NJ 08105.
001685	State Chemical Mfg. Co., 3100 Hamilton Ave., Cleveland, OH 44114.
001769	NCH Corp., 2727 Chemsearch Blvd., Irving, TX 75062.
002230	Warsaw Chemical Co. Inc., Argonne Rd., Box 858, Warsaw, IN 46580.
002302	Henkel Corp., Emery Group, Health, Safety & Environmental Dept., 11501 Northlake Dr., Cincinnati, OH 45249.
002311	Haag Labs Inc., 1415 W. 37th St., Chicago, IL 60609.
002686	Hydrite Chemical Co., 2655 North Mayfair Rd., Milwaukee, WI 53226.
002829	Morton International, Inc., Specialty Chemicals Group, 333 W. Wacker Dr., Chicago, IL 60606.
002935	Wilbur Ellis Co., Box 16458, Fresno, CA 93755.
003442	Laroche Industries Inc.., Perimeter 400 - Center Two, 1100 Johnson Ferry Rd., N.E., Atlanta, GA 30342.
003635	Oxford Chemicals, Box 80202, Atlanta, GA 30366.
004000	Southern Chemical Products Co., Subsidiary of Carroll Co., 2900 W. Kingsley Rd., Garland, TX 75041.
004330	Waverly Beauty Products, Inc., 905 Waverly Ave., Holtsville, NY 11742.
004389	Pacific Chemical Div Pace National Corp., 500 7th Ave., S., Kirkland, WA 98033.
004462	USC, A Division of Hydrite Chemical Co., 2655 North Mayfair Rd., Milwaukee, WI 53226.
004524	H.B. Fuller Co., 3900 Jackson St., N.E., Minneapolis, MN 55421.
004708	Laidlaw Corp., 1212 E. 5th Street, Metropolis, IL 62960.
004758	Pet Chemicals, Box 18993, Memphis,, TN 38181.
004816	Fairfield American Corp., 809 Harrison St., French Town, NJ 08825.
004829	Poolchem, Inc., d/b/a Coastal Industries, 225 Passaic St., Passaic, NJ 07055.
004959	West Agro, Inc., 11100 North Congress Ave., Kansas City, MO 64153.
004972	Protexall Products Inc., 1109-11 Hwy 427 N., Longwood, FL 32750.
004974	Mylen Co., 3620 Bedford Ave., Brooklyn, NY 11210.
005185	Bio-Labs Inc., Box 1489, Decatur, GA 30031.
005332	Plantabbs Corp., 6 Foxtail Rd., Timonium, MD 21093.
005590	Chemspray Packaging, Inc., 5 Taft Rd., Totowa, NJ 07512.
005602	Hub States Corp., 419 E. Washington St., Indianapolis, IN 46204.
005664	Cantol Inc., 2211 N. American St., Philadelphia, PA 19133.
005736	Dubois Chemicals, Inc., c/o Joe D. Slone, 3630 E. Kemper Rd., Sharonville, OH 45241.
005741	Spartan Chemical Co., 110 N.W. Wood Ave., Toledo, OH 43607.
005747	Arrow Chemical Products Inc., 2067 St. Anne St., Detroit, MI 48216.
005768	Spurrier Chemical Companies Inc., Box 2812, Wichita, KS 67201.
005813	Clorox Co., Box 493, Pleasanton, CA 94566.
005870	Texo Corp., 2801 Highland Ave., Cincinnati, OH 45212.

TABLE 4.—REGISTRANTS OF PRODUCTS CONTAINING ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D—Continued

EPA Company No.	Registrant Name and Address
005887	Wilbur-Ellis Co., Box 9518, Fresno, CA 93792.
005905	Helena Chemical Co., 5100 Popular Ave.- Suite 3200, Memphis, TN 38137.
006035	Vineland Laboratories, Affiliate Of IGI, Inc., 2285 E. Landis Ave., Vineland, NJ 08360.
006186	Damon Chem Co. Inc., Box 2120, Alliance, OH 44601.
006198	National Chemical Inc., 105 laberty St., P.O. Box 32, Winona, MN 55987.
006484	Ace Chemical Products, Inc., 8415 N. 87th Street, Box 83108, Milwaukee, WI 53223.
006720	Southern Mill Creek Products, 5414 N. 56th St., Tampa, FL 33610.
006959	Cessco Inc., 1109 Central Ave., Box 18452, Charlotte, NC 28218.
007246	Kemco-Hunter Chemical Co., 313 Lilac St., Box 8705, Houston, TX 77009.
007401	Voluntary Purchasing Group, Inc., Box 460, Bonham, TX 75418.
007742	King of All Mfg. Inc., 2601 Davison Rd., Flint, MI 48506.
008047	Poly Chem Inc., Box 10026, New Orleans, LA 70181.
008123	Frank Miller & Sons Inc., 13831 S. Emerald Ave., Chicago, IL 60627.
008325	Misco Products Corp., R.D. 9, Box 9155, Reading, PA 19605.
008370	Nyco Prod Co., 3021 W. 36th St., Chicago, IL 60632.
008405	Webco Chemical Corp., Box 340, Webster, MA 01570.
008428	Shrader Chemical Co., 1205 S. Santa Fe, Compton, CA 90221.
008503	Products Chemical Co., 2707 Barber Ct., Cleveland, OH 44113.
008730	Hercon Environmental Co., A Division of Hercon Laboratories Corp., Aberdeen Rd., Emigsville, PA 17318.
008791	E-Z Clor Systems, 1920 Belt Way Drive, St. Louis, MO 63114.
008898	Witco Corp. - SH & EA, 155 Tice Blvd., Woodcliff Lake, NJ 07675.
009075	Penguin Down Co., 4441 Carothers Rd., Franklin, TN 37064.
009143	Chemscope Corp., 3200 E. Randol Mill Rd., Arlington, TX 76011.
009150	International Dioxide Inc., 136 Central Ave., Clark, NJ 07066.
009152	Morgan-Gallacher Inc., 4628 Cecelia St, Cudahy, CA 90201.
009647	Masury Columbia, 1140 E. 103rd St., Chicago, IL 60628.
009800	Stewart-Hall Chem Corp., 222 Wash St Mt Vernon, NY 10553.
009804	Bio-Cide International Inc., 2845 Broce Drive, Box 722170, Norman, OK 73070.
010118	Mueller Sports Medicine Inc., Box 99, Prairie Du Sac, WI 53578.
010183	Haviland Products Co., 421 Ann St. N.W., Grand Rapids, MI 49504.
010248	Gemini Distributing Co., Box 397, Ceres, CA 95307.
010508	Chemidyne Corp., Box 171, Macedonia, OH 44056.
010589	Pettibone Lab. Inc., 136 Central Ave., Clark, NJ 07066.
010634	Alpha Chemical Services Inc., Box 431, Stoughton, MA 02072.
010699	Retta Mfg., Inc., Box 2306, Eugene, OR 97402.

TABLE 4.—REGISTRANTS OF PRODUCTS CONTAINING ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D—Continued

EPA Company No.	Registrant Name and Address
011037	Lisa O. Strong, 873 Foxfire Dr., Manteca, CA 95336.
011694	Dymon, Inc., 3401 Kansas Ave. Box 6267, Kansas City, KS 66106.
011715	Speer Products Inc., Box 18993, Memphis, TN 38118.
011741	Davies DW & Co. Inc., 3200 Phillips Ave., Racine, WI 53403.
012465	Advanced Laoratories ., Box 1368, Westfield, MA 01088.
013283	Rainbow Technology Corp., Box 26445, Birmingham, AL 35226.
017868	Hubbard Chemicals, 224 W. Battle St., Box 174, Talladega, AL 35160.
021164	Rio Linda Chemical Co., Inc., A Delaware Corp., 410 N. 10th St., Sacramento, CA 95814.
022559	Cleanway Products, 10641 Fenkell, Detroit, MI 48238.
029909	Cardinal Laboratories Inc., 710 S. Ayon Ave., Azusa, CA 91702.
032240	Domain, Inc., 201 Knowles Ave., New Richmond, WI 54017.
032969	All-Chem Corp., 15120 Third Ave., Highland Park, MI 48203.
033068	Aquashade, Inc., Box 198, Eldred, NY 12732.
033764	Aerosol Services Co., Inc., 425 S. 9th Ave., City Of Industry, CA 91746.
034688	Akzo Chemicals, Inc., 300 South Riverside Plaza, Chicago, IL 60606.
034704	Platte Chemical Co., 419 18th St., Box 667, Greeley, CO 80632.
034810	Wexford Labs, Inc., 325 Lefingwell Ave., Kirkwood, MO 63122.
035495	Chemax, 5700 N.W. Front Ave., Portland, OR 97210.
036488	Attack Pesticides, Division Of Ringer Corp., Box 35240, Minneapolis, MN 55435.
036638	Scentry Inc., 610 Central Ave., Billings,, MT 59102.
038754	Western Magnesium Corp., c/o Pesticide Development Services, Rte 1, Box 1228, County Line Rd., Hahira, GA 31632.
040230	Agbiochem, Inc., 3 Fleetwood Ct., Orinda, CA 94563.
042443	Natural Research People, Inc, South Rte. Box 12, Lavina,, MT 59046.
042882	Gametrics Limited, Colony (Wyoming) Route, Alzada,, MT 59311.
044215	Kaw Valley, Inc., c/o John W. Kennedy Consultants, Inc., 9101 Cherry Lane, Suite 113, Laurel, MD 20708.
044797	Exxon Chemical Co., 8230 Stedman Street, Houston, TX 77029.
045447	Clenesco Products Corp., 298 Cox Street, Roselle, NJ 07203.
046149	Evans Biocontrol, Inc., Box 1029, Broomfield, CO 80020.
047000	Chem-Tech, Ltd, 4515 Fleur Dr. #303, Des Moines, IA 50321.
048205	The Durham Group, Inc., 561 Acorn St., Deer Park,, NY 11729.

TABLE 4.—REGISTRANTS OF PRODUCTS CONTAINING ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST D—Continued

EPA Company No.	Registrant Name and Address
049403	Nipa Labs, Inc., c/o Pazianos Associates, 1338 G Street, S.e., Washington, DC 20003.
049407	Sterling International Ltd., E. 15916 Sprague Ave., Veradale, WA 99037.
050383	Wilson Laboratories, Inc., c/o Meagley, Philips, Lytle, Hitchcock, Blaine, 3400 Marine Midland Center, Buffalo, NY 14203.
051036	Micro-Flo Co., Box 5948, Lakeland, FL 33807.
051753	Allstot & Allstot, Box N, Tonasket, WA 98855.
051793	Elite Mfg. & Packaging Inc., 225 Horizon Drive, Suwanee, GA 30174.
052474	Virginia KMP Corp., 4110 Platinum Way, Dallas, TX 75237.
054735	Bozeman Bio Tech., 1612 Gold Ave., Box 3146, Bozeman, MT 59772.
056336	Consep Membranes, Inc., 213 Southwest Columbia, Box 6059, Bend, OR 97708.
056560	Camco Mfg. Inc., 121 Landmark Drive, Greensboro, NC 27409.
058866	Proguard Inc., Box 57, Salinas, CA 93902.
059055	Chemical Cealin Co, Inc., 961 Blaine Ave, Salt Lake City, UT 84105.
060061	Kop-Coat, Inc., 436 Seventh Ave., Pittsburgh, PA 15219.
060245	Quality Technologies, Box 31136, Billings, MT 59107.
061260	Bishop, Cook, Purcell & Reynolds, Agent for: The American Honey Producers Assoc., 1400 L St. N.W., Washington,, DC 20005.
062811	Innotech Inc., 10502 N.W. Ambassador Dr. Suite 200, Kansas City,, MO 64153.

VI. Impact of Anticipated Cancellations

Of the unsupported active ingredients from Reregistration List D identified in this notice, about 60 percent have no currently active registrations. Therefore, their removal is expected to have a negligible impact on users or any other group. The significance of the potential cancellation of the products for the remaining active ingredients is harder to assess. Of these, most have had reported annual production of less than 100,000 pounds while a few have had reported annual production between 100,000 and 1 million pounds. Five had reported annual production greater than 1 million pounds. Of course, an ingredient may be important for minor uses even with very low production, but information available to EPA does not permit reliable identification of ingredients or specific products of potential significance for minor uses.

The EPA is concerned about possible impacts on minor uses and hopes that by giving this opportunity to original or new registrants to commit to support pesticides, this notice will provide a way for users and others who might be affected by the loss of a product to protect themselves. To lessen any possible impact on minor uses, EPA has decided to allow 90 days following publication of this notice for affected persons to commit to support reregistration of such affected pesticides. This 90-day comment period is being offered although FIFRA 4(d) requires only a 60 day period for such comment. The EPA is making a special effort to communicate this opportunity. In addition to publishing this notice in the **Federal Register**, copies are being sent to minor use organizations, to the States, to the U.S. Department of Agriculture, Food and Drug Administration, and to other parties who have previously expressed concern for minor uses.

When registrations disappear as a result of the action proposed in this notice, the cancellation orders will generally permit registrants to continue to sell and distribute existing stocks of the cancelled products for 6 months after the cancellation becomes effective, or approximately 9 months from the publication date of the **Federal Register** notice unless otherwise specified. Existing stocks are defined as those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of cancellation. The effective date of cancellation will be the date of the Cancellation Order. Dealers and users will be allowed to sell or use such stocks until they are exhausted. These general provisions should serve in most cases to cushion the impact of these cancellations while the market adjusts.

Dated: September 25, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 91-23968 Filed 10-3-91; 8:45 am]

BILLING CODE 6560-50-F

federal register

Friday
October 4, 1991

Part III

Department of Agriculture

Cooperative State Research Service

Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program; Solicitation of Proposals for Fiscal Year 1992; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program; Solicitation of Proposals for Fiscal Year 1992

Purpose

Notice is hereby given that under the authority contained in section 1417(b)(6) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(b)(6)), the Cooperative State Research Service (CSRS) through its Higher Education Programs (HEP), will award competitive grants, subject to the availability of funds, to colleges and universities for doctoral fellowships to meet national needs for the development of professional and scientific expertise in the food and agricultural science.

Eligibility

Please note that the authorizing legislation for the National Needs Graduate Fellowship Program allows the award of grants to colleges and universities only; awards cannot be made to research foundations established by the college or university.

Available Funds

It is anticipated that the amount available for this purpose in Fiscal Year 1992 will be approximately $3,400,000.

Targeted Areas

Food and agricultural sciences areas appropriate for fellowship applications are those in which shortages of expertise have been determined and targeted by CSRS–HEP for national needs doctoral fellowship support. Please note that due to the funding level of this program over the last five fiscal year, CSRS will support the six national need areas funded in past years on a rotating basis of three need areas per fiscal year. The targeted national need areas to be supported in FY 1992 are: Biotechnology—Animal; Human Nutrition and/or Food Science; and Marketing or Management—Food, Forest Products, or Agribusiness. Approximately one-third of the available funds will be allocated to each of the three national need areas. CSRS plans to support the remaining three national need areas (Biotechnology—Plant; Engineering—Food, Forest Products, or Agricultural; and Water Science) in FY 1993. Although this procedure limits the participation of an applicant interested in a specific targeted national need area to alternating years, it increases the likelihood that the applicant will obtain funding under the program each time a grant application is submitted.

Proposal Limitations

For the Fiscal Year 1992 program, a proposal may request funding in only one (1) national need area. A proposal may request a minimum of two (2) fellowships and a maximum of our (4) fellowships in the national need area for which funding is requested. While no limitation is placed on the number of proposals an institution may submit, not more than two (2) proposals may be submitted by the same college or equivalent administrative unit within an institution. Additionally, total funds awarded to an institution under the program in Fiscal Year 1992 shall not exceed $324.000.

Financial and Other Limitations

Each institution funded will receive $54,000 for each doctoral fellowship awarded. However, it is anticipated that total program funds available will not be evenly divisible by $54,000. Therefore, one fellowship will be supported on a partial basis with a lesser amount of funds. Except in the case of the partially funded fellowship, fellowship monies must be used to: (1) Support the same doctoral fellow for three (3) years at $17,000 per year; and (2) Provide for an institution annual cost-of-education allowance of $1,000, not to exceed a total of $3,000 over the three-year duration of the fellowship. Please note that beginning in FY 1991 the yearly doctoral stipend was increased from $15,000, to $17,000 in an attempt to keep the USDA support at a level that is competitive with fellowship offered outside the food and agricultural sciences community.

While proposals must document institution willingness to recruit and train at least 2–4 fellows in a national need area, CSRS may fund fewer fellows than requested in a proposal.

This program is highly competitive, and at the present time it is anticipated that funding will be available to support approximately 63 doctoral fellow through seven grants in each of the three targeted areas.

Application Information

An Application Kit has been developed which provides the forms, instructions and other relevant information needed by institutions to apply to the Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program described herein. Applicants should be alert to the instruction that proposals must be typed, double-spaced, on one side of the page only, and paginated. Additionally, applicants are cautioned to comply with the 20-page limitation for part 3 (National Need Narrative) of the proposal and the inclusion of summary faculty vitae through the use of Form CSRC–708.

Copies of the Application Kit may be requested from: Proposal Services Branch; Awards Management Division; Cooperative State Research Service; U.S. Department of Agriculture; room 303, Aerospace Center; 14th and Independence Avenue, SW.; Washington, DC 20250–2200; telephone number (202) 401–5048.

When and Where to Submit Proposals

Six (6) copies of a proposal and one (1) copy of the institution's latest graduate catalog must be submitted. Proposals submitted through the mail should be sent to the address listed above and must be postmarked by January 15, 1992, Hand-delivered proposals must be submitted by January 15, 1992, to an express mail or a courier service or brought to room 303, Aerospace Center, 901 D Street, SW., Washington, DC 20024. Proposals transmitted via a facsimile (FAX) machine will not be accepted.

Applicable Regulations

This program is subject to the provisions found at 7 CFR part 3402 (52 FR 4712, February 13, 1987, as amended by 55 FR 2214, January 22, 1990). In addition, the USDA Uniform Federal Assistance Regulations, 7 CFR part 3015, as amended; the Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 7 CFR part 3017; and the New Restrictions on Lobbying, 7 CFR part 3018, apply to this program.

Supplementary Information

This program is listed in the Catalog of the Federal Domestic Assistance under No. 10.210. For the reasons set forth in the Final Rule related notice to 7 CFR part 3015, Subpart V, 48 FR 29115, June 24, 1983, when the authority to administer this program resided in the Agricultural Research Service, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0024.

Done at Washington, DC this 26th day of September 1991.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 91–23966 Filed 10–3–91; 8:45 am]

BILLING CODE 3410–22–M

federal register

Friday
October 4, 1991

Part IV

Environmental Protection Agency

Notice of Intent to Remove Certain Active Ingredients from Reregistration Lists B and C and to Cancel Pesticides Containing Those Ingredients; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP-34012: FRL 3880-7]

Intent to Remove Certain Active Ingredients from Reregistration Lists B and C and to Cancel Pesticides Containing those Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under the 1988 amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), registrants of pesticide products containing specified active ingredients must comply with a number of new responsibilities to ensure that their products become reregistered. Among these responsibilities was submission of specific information and a commitment to support active ingredients contained in their products through reregistration during "Phase Two" of the five phases of reregistration. In addition, registrants that had committed to support an active ingredient contained in their products during Phase Two were required to submit additional information during "Phase Three". The EPA is providing notice of its intent to remove certain unsupported active ingredients from reregistration Lists B and C and to cancel all registrations containing such ingredients unless someone assumes the burden of supporting them.

DATES: Reports of commitments to support active ingredients must be received by January 2, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Virginia Dietrich, Special Review and Reregistration Division (H7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. WF33N4, Crystal Station Number 1, 2800 Crystal Drive, Arlington, VA 22202, (703) 308-8157.

SUPPLEMENTARY INFORMATION: This notice announces EPA's intent to remove 173 active ingredients from Reregistration Lists B and C, and to cancel registrations of products containing them unless someone assumes the burden of supporting them

I. Introduction

Section 4(d) of FIFRA requires that registrants of pesticides containing active ingredients on Reregistration Lists B, C, or D comply with certain responsibilities during Phase Two of reregistration. These include informing EPA of their intent to seek or not to seek reregistration, identifying the data requirements that apply to their pesticide registrations, identifying the data requirements for which they have already submitted adequate data, and committing to replace missing or inadequate data concerning the active ingredient contained in their products. These actions were required of registrants of products containing ingredients on List B by August 24, 1989 and on List C by October 24, 1989.

Failure of a registrant to submit an adequate Phase Two response for a particular registration is grounds for cancellation of the registration pursuant to FIFRA section 4(d)(5). If no registrant of a pesticide containing a particular active ingredient commits to support the reregistration of that active ingredient, i.e, either no registrant has committed to seek reregistration of any product containing that active ingredient, or no registrant has committed to fulfill all generic data requirements for the active ingredient, section 4(d)(5)(B) authorizes EPA to issue in the **Federal Register** a notice of intent to delete the active ingredient from the list of active ingredients to be reregistered, and to cancel the registrations of all pesticide products containing that ingredient. The proposed action can become effective in 90 days unless, within that time, some person commits to support the reregistration of the active ingredient.

A **Federal Register** notice (55 FR 31164) published on July 31, 1990, announced the EPA's intent to remove 82 active ingredients from Reregistration List B and to cancel the registrations of 305 products containing those ingredients. During the comment period following publication of this notice EPA received commitments to support reregistration for 12 of these active ingredients. Thus these 12 active ingredients were retained on List B, and the 123 corresponding product registrations were not cancelled. The remaining 70 active ingredients included in the notice were removed from List B, and the 182 corresponding product registrations were cancelled.

After reviewing Phase Two responses submitted by registrants for List C, the EPA has identified 154 active ingredients which no registrant has committed to support for reregistration. These active ingredients are now candidates for removal from List C, and all registrations of products containing these active ingredients are candidates for cancellation under section 4(d)(5) of FIFRA unless someone assumes the burden of supporting them.

In Phase Three, registrants that committed to reregister products during Phase Two of reregistration are also required to comply with FIFRA section 4(e) by submitting additional information. EPA did not receive Phase Three submissions from registrants of pesticides containing 9 active ingredients from List B and 10 active ingredients from List C. Pursuant to FIFRA section 4(e)(3)(A), the failure to submit a Phase Three response is grounds for cancellation of affected registrations by order without a hearing. EPA considers a registrant's failure to submit a Phase Three response to be tantamount to withdrawal of any commitment made during Phase Two to support the reregistration of an active ingredient. Therefore, under authority of section 4(d) of FIFRA, EPA is providing notice of its intent to delist these now unsupported active ingredients from Lists B and C and to cancel all products containing them unless someone assumes the burden of supporting them.

The cancellation candidates listed in Tables 2 and 3 include some for which registrants have reported their intent to seek reregistration and claimed a "generic data exemption". These registrants formulate their products using purchased active ingredient. The exemption is from having to provide data for the generic pesticidal active ingredient. Such exemptions are granted when generic data are already being provided by the registrant of the source of the active ingredient. Such an exemption can be granted only if the product uses a purchased, EPA-registered source of active ingredient, and only if the registered source agrees to supply, and supplies, the necessary data. Since the registrant(s) of the identified source(s) of the active ingredients listed in this notice did not commit to reregister the ingredient, an exemption is no longer appropriate. Therefore, those registrants who claimed a generic data exemption who wish to prevent cancellation of their products in Table 2 must either commit to support the active ingredient for reregistration or persuade someone else to do so.

Once an active ingredient is removed from List B or C, any person wishing to bring the pesticide back on the market would need to apply to EPA for a "new chemical" registration. Such a registration generally would not be approved until all applicable data requirements are satisfied.

II. Intent to Remove Unsupported Ingredients Without Active Registrations from Reregistration List B and C

The 74 List C unsupported active ingredients listed in Table 1 are not found in any currently registered products. Product registrations which

once contained these active ingredients have previously been amended to remove the ingredient from the formula or have been cancelled for other reasons. Since there are no remaining registrations containing the active ingredient, and no person can therefore acquire the rights to a registration containing them, these ingredients will be removed from their respective lists effective 90 days after publication of this notice in the **Federal Register** and will not be considered further for reregistration. These ingredients are listed in the following Table 1:

TABLE 1— UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C: INGREDIENTS WITH NO ACTIVE REGISTRATIONS

Case No	Chemical name	CAS Registry no.
3003	Alkyl* bis(2-hydroxyethyl) benzyl ammonium chloride	61789-71-7
3003	Alkenyl* dimethyl ethyl ammonium bromide *(90% C18',10% C16')	(No CAS No.)
3003	Alkenyl* dimethyl ammonium acetate *(75% C18', 25% C16')	22968-84-9
3003	Dialkyl* dimethyl ammonium bentonite *(as in fatty acids of tallow)	68953-58-2
3003	Alkyl* dimethyl ethyl ammonium bromide *(mixed alkyl and alkenyl groups)	61788-99-6
3006	Alkyl* dimethyl 3,4-dichlorobenzyl ammonium chloride *(55%C14, 23%C12, 20%C16,	68989-02-6
3006	Alkyl* dimethyl 3,4-dichlorobenzyl ammonium chloride *(50%C14, 40%C12, 10%C16)	68989-02-6
3006	Alkyl* dimethyl 3,4-dichlorobenzyl ammonium chloride *(100% C12)	102-30-7
3007	Capric diethanolamide	136-26-5
3008	Alkyl* bis(2-hydroxyethyl) amine acetate *(65% C18, 30% C16, 5% C14)	(No CAS No.)
3009	Alkyl* dipropoxyamine *(47% C12, 18% C14, 10% C18, 9% C10, 8% C16, 8% C8)	68516-06-3
3010	2-Alkyl*-1-(2-hydroxyethyl)-2-imidazoline acetate *(as in fatty acids of tallow)	(No CAS No.)
3010	1-(2-Hydroxyethyl)-2-heptadecenyl-2-imidazoline	27136-73-8
3010	2-Heptadecenyl-2-imidazoline	30968-43-5
3010	2-Alkyl*-1 or 3-benzyl-1-(2-hydroxethyl)-2-imidazolinium chloride	68309-34-2
3010	Heptadecenyl imidazolinium chloride	82078-98-6
3010	2-Heptadecyl-1-methyl-1-(2-(stearoylamido)ethyl)-2-imidazoli nium methyl sulfate	13470-50-3
3011	2-Alkyl* isoquinolinium bromide *(50% C12, 30% C14, 17% C16, 3% C18)	53466-68-5
3012	*N*-Alkyl*-*N*-ethyl morpholinium ethyl sulfate *(66%C18, 25%C16, 8%C18', 1%C14)	61791-34-2
3012	*N*-Cetyl-N-ethylmorpholinium ethyl sulfate	78-21-7
3012	*N*-alkyl-*N*-ethyl morpholinium ethyl sulfate *(92% C18, 8% C16)	61791-34-2
3013	Cetyl pyridinium bromide	140-72-7
3014	1-(Alkyl* amino)-3-aminopropane diacetate *(37%C18', 29%C16, 23%C18, 3%C16',	68911-78-4
3014	1-(Alkyl* amino)-3-aminopropane benzoate *(as in fatty acids of coconut oil)	68188-29-4
3014	1-(Alkyl* amino)-3-aminopropane *(47%C12, 18%C14, 10%C18, 9%C10, 8%C16, 8%C8)	61791-67-1)
3014	*N*-cis-9-Octadecenyl-1,3-propanediamine monogluconate	83542-86-3
3014	*N*-((1-Alkyl* ethyl)-1,3-propanediamine) *(24%C14, 24%C11, 23%C13, 23%C12, 3%C15,	68155-37-3
3015	Allantoin	97-59-6
3015	Aluminum chlorohydroxy allantoinate	1317-25-5
3028	Bioban P-1484	(No CAS No.)
3031	trans-1,2-Bis(propylsulfonyl)ethylene	1113-14-0
3035	4-tert-Butylphenol	98-54-4
3035	Potassium 4-tert-butylphenate	3130-29-8
3038	Chlorhexidine dihydrochloride	3697-42-5
3039	Chlorinated glycoluril (1,3,4,6-Tetrachloroglycoluril and related compounds)	776-19-2
3040	4-Chloro-2-cyclopentylphenol, potassium salt	35471-38-6
3041	2-Chloro-*N*-(hydroxymethyl)acetamide	2832-19-1
3042	2-Chloro-4-phenylphenol	92-04-6
3042	Potassium 2-chloro-4-phenylphenate	18128-16-0
3043	5-Chloro-2-biphenylol, potassium salt	53404-21-0

TABLE 1— UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C: INGREDIENTS WITH NO ACTIVE REGISTRATIONS—Continued

Case No	Chemical name	CAS Registry no.
3043	4(or 6)-Chloro-2-phenylphenol, diethanolamine salt	53537-63-6
3043	4(or 6)-Chloro-2-phenylphenol, diethanolamine salt	53537-63-6
3044	6-Chloro-2-phenylphenol, potassium salt	18128-17-1
3044	3-Chloro-2-biphenylol, sodium salt	10605-11-5
3047	5-Chlorosalicylanilide	4638-48-6
3051	Alkyl*-diamine monobenzoate *(as in fatty acids of coconut oil)	68526-65-8
3054	Hexadecyl cyclopropanecarboxylate (8CA & 9CA)	54460-46-7
3066	O-(2,4-Dichlorophenyl) O-methyl isopropylphosphoramidothioate	299-85-4
3072	3-Phenyl-1,1-dimethylurea trichloroacetate	4482-55-7
3073	2-Fluoroacetamide	640-19-7
3075	2-Methyl-2,4-pentanediol	107-41-5
3086	Calcium cyanide	592-01-8
3086	Potassium cyanide	151-50-8
3091	Methyl ethyl ketone	78-93-3
3092	5-Chloro-2-methyl-3(2H)-isothiazolone, calcium chloride complex	57373-19-0
3092	2-Methyl-3(2H)-isothiazolone, calcium chloride complex	57373-20-3
3106	Leaves of Pennyroyal (Mentha pulegium)	(No CAS No.)
3107	*N*-Polyethylene polyamine *N*-oleylamine hydrochloride	67905-86-6
3112	Diphenyl phthalate	84-62-8
3112	Dibutyl phthalate	84-74-2
3112	Ethyl phthalate	84-66-2
3112	Bis(2-ethylhexyl) phthalate	117-81-7
3113	Pine tar	8011-48-1
3115	Piperonal bis(2-(2-butoxyethoxy)ethyl) acetal	5281-13-0
3120	Alkyl*-amine-*N,N*-bis(2-omega-hydroxypoly(oxyethylene)ethyl)	61791-14-8
3121	Polyoxyethylene sorbitan monolaurate	9005-64-5
3123	Alpha-hydro-omega-hydroxy-poly(oxy(methyl-1,2-ethanediyl)),-	25322-69-4
3131	Sodium dodecyldiphenyl oxide sulfonate	53467-00-8
3137	1,2-Methylenedioxy-4-(2-(octylsulfidnyl)propyl)benzene	120-62-7
3141	Isobornyl thiocyanoacetate	115-31-1
3142	b,b'-Dithiocyano diethyl ether	4617-17-8
3142	2-Thiocyanatoethyl dodecanoate	301-11-1
3145	Triethanolamine laurate	2224-49-9
3145	Triethanolamine myristate	41669-40-3

III. Intent to Remove Ingredients Unsupported During Phase Two from Reregistration List C, and to Cancel Active Registrations Containing these Ingredients

Of the 154 List C active ingredients not supported in Phase Two 80 still occur in 763 current registrations under section 3 or section 24(c) of FIFRA. These active ingredients and all associated registrations are listed in Table 2 of this notice. The EPA-assigned company number for each registrant appears to the left of each product name entry as the first element in each Section 3 registration number or as a separate entry preceding each Section 24(c) registration number. The names and addresses of these registrants, in order of company number, appear in Table 4 elsewhere in this notice.

Ninety days after publication of this notice the ingredients in Table 2 will be removed from List C, and all associated registrations will be cancelled unless within that period someone takes advantage of the process set forth in section 4(d)(5) of FIFRA and described in Unit V of this document for preserving these registrations. Such support may come from any current registrant or from another party who nas acquired the rights to the affected registration(s). Table 2 reads as follows:

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
3001	Dehydroabietylamine acetate	2026-24-6	005427-00037	Wrico MVF
3001	Dehydroabietylamine	1446-61-3	000334-00281	Sno Cleang
			000334-00289	Blue Fyte Bowl Disinfectant Concentrate
			000334-00297	In the Pink Ceramic Cleaner & Disinfectant Deodorant
			000334-00304	Porcena Concentrated Liquid Porcelain Cleaner and Bowl
			007378-00011	Skasol Chief 90 Porcelain Bowl Cleaner
			035576-00014	The Fuld Line Emulsion Bowl Clnr & Disinfectant
			043701-00004	Chief 90 Procelain Bowl Cleaner
3002	*N*-(Phenylmethyl)-9-(tetrahydro-2H-pyran-2-yl)-9H-purin-6-amine	2312-73-4	000275-00049	Accel Plant Growth Regulator
3003	Alkyl* trimethyl ammonium chloride *(90%C18, 10%C16)	68002-62-0	032465-00001	SDC Water Conditioner Formulated for Waterbeds
3003	Cetyl dimethyl ethyl ammonium bromide	124-03-8	003150-00001	Cetylcide
			003150-00003	Cetylite Spray Cleaner
			009871-00001	Concentrated Bosworth Germicide Disinfectant
			010214-00002	Coe Concentrated Germicide
			018184-00001	Germicidal Concentrate
3003	Dialkyl* dimethyl ammonium chloride *(85% C18, 15% C16)	(No CAS No.)	000875-00092	Wyandotte Issue Plus Bacteriostatic Fabric Softener
3003	Dodecyl bis (2-hydroxyethyl) octyl hydrogen ammonium chloride	(No CAS No.)	043670-00001	Intersept
			043670-00002	Macroseptic
3004	Kerosene	8008-20-6	000270-00145	Farnam Go-Fly
			000270-00148	Farnam Repel-X V Emulsifiable Fly Spray
			000270-00149	Farnam Wipe V
			000270-00150	Repel-XP
			000270-00151	Faram Wipe P Fly Protectant
			000407-00384	Imperial Ready To Use 1% Vapona
			000602-00285	Purina Roach & Ant Insecticide
			000901-00052	Insecticide, Aerosol Synergized Pyrethrin Type II
			001386-00143	Unico Livestock and Barn Fogging Spray
			001941-00051	Elco Dursban 2E Insecticide
			001941-00057	Elco Dursban Ready To Use Roach Spray
			002217-00340	Vapona Fogging Spray
			003050-00022	Diazi-Trol
			003862-00092	Double Kill
			004077-00079	Orb No. 116 Total Release Clean Out Fogger
			004816-00018	Pyrenone Emulsion Concentrate 40-4
			004816-00076	Pyrenone Aerosol Concentrate 50-10
			004816-00187	Pyrenone O.T. Emulsifiable Concentrate 60-6
			004816-00323	Niagara Intermediate Concentrate 20-5 insecticide
			004816-00666	FSN 6840 Insecticide, Pyrethrum Space Spray Synergized
			005693-00061	Shield Total Release Fogger
			006720-00280	SMCP 50% Chlordane Emulsifiable Concentrate
			006720-00388	Superior Pyrethins 6% Concentrate
			007729-00009	Ranch Service Brand Dormant Emulsive Oil 98
			007885-00047	Meadows Total Release Fogger Insecticide
			011694-00086	10 and 1 Vegetation Killer
			028293-00177	Flea and Tick Powder

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			041715-00018	D-H 57% Malathion Emulsifiable
			043694-00001	Williford's Nu-Coat Sarcoptic Mange Formula
			044215-00010	Nebcon No. 6 Machinery Spray Insecticide
			044215-00026	Aidex 2% Malathion
			055146-00029	Lacco San-O-Fly
			058087-00002	Gro Diazinon Lawn Spray (11-188)
			058087-00003	Super Chinch Ethion Lawn Spray
			001016 IA-78-0008	Union Carbide Sevin 4 Oil Insecticide
			000802 OR-77-0002	Superior Type Spray Oil
			001016 OR-83-0042	Sevin 4 Oil Insecticide
			001016 VT-79-0002	Sevin 4 Oil Insecticide
3004	Mineral spirits	8032-32-4	000644-00056	Varsol
			005831-00006	Bartel's Redy Coat Green Gard 457
			044446-00014	Hawk Ridof RTU
3004	Isoparaffinic hydrocarbons	64771-72-8	000475-00310	CAI House and Garden Insect Killer
			000475-00314	CAI Mothproofer I
			000475-00316	CAI Mothproofer Spray
			000475-00318	CAI Mothproofer Spray II
			000478-00101	Real-Kill House & Garden Bug Killer
			000499-00353	P/P Mothproofer Spray No. 1
			003635-00133	Oxford Super-Fog
			003635-00155	Oxford Supercide Brand
			008845-00072	Hot Shot Household Flea and Tick Exterminator
			008845-00078	Hot Shot Moth Proofer
			028293-00021	Unicorn Blitz RTU Spray
3005	Alkyl* amino betaine *(46%C12, 24%C14, 10%C16, 8%C10, 7%C8,5%C18)	68424-94-2	003525-00060	Mytee Bowl Cleaner
			003525-00061	Head-Strong
			004000-00091	Chemex Disinfectant Bowl Cleaner
			006836-00042	Lonza Formulation 223
			012204-00012	Marc 50-D Bowl Cleaner
3007	Lauric diethanolamide	120-40-1	000499-00336	Pet Talk Flea & Tick Foam Shampoo
			004758-00029	Holiday Lustre Shampoo
			005590-00135	Disinfectant Foam Cleaner for Hospital Use Germicidal
3007	Alkyl* diethanolamide *(70% C12, 30% C14)	120-40-1	000499-00141	Dog-Stopper
			004758-00134	Holiday Concentrated Shampoo for Dogs and Cats
			005664-00041	New Bactro "10"
			009647-00029	Spring Day RTU
3007	Diethanolamides of the fatty acids of coconut oil	68603-42-9	009647-00014	Masury-Columbia Spring Day Quaternary Germ. Cleaner
3010	Heptadecyl hydroxyethylimidazolinium chloride	53466-92-5	000334-00260	One Stroke Bacteriostatic Dust Controller
			000334-00285	Poly Zag Bowl Sanitizer
			000334-00286	4-D Bowl Sanitizer
			000334-00295	Ludene Concentrated Bowl Cleaner & Disinfectant
			000334-00310	Sanitane Bacteriostatic Dust Controller
			015567-00004	Contact Smooth on Double Concentrated Emulsion Bowl Cleaner & Disinfectant
			035576-00014	The Fuld Line Emulsion Bowl Cleaner & Disinfectant
3010	Heptadecyl hydroxyethyl imidazoline	53466-91-4	001964-00010	New South's Safti-Sol Brand Concentrated Bowl Cleanse W

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
3010	2-Alkyl*-1-benzyl-1-(2-hydroxyethyl)-2-imidazolinium chloride*(as in fatty acids of coconut oil)	61791-52-4	003339-00021	Fuel - Sentry
			006836-00062	CB-50 Water Treatment Microbiocide
			010807-00131	CWT-1000
			027581-00015	Midland 667
			028293-00169	HPI 7910
			045388-00006	K-440
			051532-00001	CB-50
3011	Alkyl* methyl isoquinolinium chloride *(55%C14, 12%C12,17%C16, 3%C18)	71820-38-7	005427-00037	Wrico MVF
3012	*N*-Alkyl*-*N*-ethyl morpholinium ethyl sulfate *(92%C18, 8%C16)	78-21-7	004206-00030	Barcolene Spray Disinfectant
			004829-00097	Biotech Disinfectant Surface Spray P220
			004829-00099	Biotech Disinfectant Surface Spray Q500
			010807-00050	Misty II Disinfectant & Deodorant
			010807-00066	Misty Hospital III Disinfectant & Deodorant
3013	Cetyl pyridinium chloride	123-03-5	000777-00061	Roommate Disinfectant/Air Sanitizer and Air Freshener
3013	Alkyl pyridines	68391-11-7	002292-00075	Shoo Outdoor Dog and Cat Repellent
			002292-00078	Jinx Outdoor Dog Cat Repellent
			007401-00356	Ferti-Lome Dog & Cat Repellent
			020215-00001	Repel
			056644-00080	Repel #2 Wild Animal Repellent
3014	1-(Alkyl* amino)-3-aminopropane diacetate *(as in fatty acids of coconut oil)	61791-64-8	051557-00002	OFC B-615 Industrial Microbiocide
3016	p-tert-Amylphenol, potassium salt	53404-18-5	000211-00025	Pheno Cen
			000211-00026	Cen O Phen Detergent Germicide
			000541-00223	Fortissimo Hospital Grade Detergent-Germicide
			001043-00032	Staphene O
			001270-00193	Zep Formula 165-A
			001553-00088	Fen-O-Cide
			001677-00039	Mikro-Bac
			002212-00005	Legphene Germicidal Cleaner
			004313-00051	Ocide Hospital Cleaner-Disinfectant
			004822-00109	Expose Phenolic Cleaner
			006962-00028	Sentry Mint
			052779-00014	Magna - CP-1
			052779-00015	Magna Phen - 100
3016	*p*-tert-Amylphenol, sodium salt	31366-95-7	000052-00208	Germ Warfare Concentrated Detergent Germicide
			000211-00036	Tri-Cen Germicidal Detergent
			000464-00607	Dow Liquid Disinfectant Formulation 3A
			001043-00026	1 Stroke Environ - H
			001043-00085	1 Stroke Environ SE
			001043-00086	Environ SE
			001043-00087	Vesphene II SE
			001043-00088	1 Stroke Vesphene SE
			002155-00071	Lemonene
			003696-00074	Texize New 25 Pine Odor Disinfectant Cleaner
			005736-00024	Dubois GSC
			005736-00046	BGC-3 Germicidal Synthetic Cleaner
3019	Fish oil	8016-13-5	046078-00001	Fruit Builder's Fish Oil Pesticide/sticker-Spreader
3020	Chevron 100	68602-80-2	000004-00226	Bonide Bacillus thuringiensis (BT) Moth Larvae

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			000004-00315	Bonide Liquid Rotenone/Pyrethrins Spray
			000004-00337	Bonide Insect Fog
			000070-00085	Kill Ko Kill Sucker
			000070-00255	Rigo Home Pest Control
			000192-00110	Fruit & Vegetable Spray
			000334-00355	Smite 25 Pressurized Spray Insecticide
			000334-00358	Smite 35 Pressurized Spray Insecticide
			000334-00377	Insect Killer KO-40
			000334-00378	Insect Killer OB-40
			000334-00380	PS-62 Insect Killer for House & Garden
			000334-00382	PS-10 Insect Killer for House & Garden
			000334-00458	Hysan Bulls-Eye Wasp & Hornet Killer
			000334-00461	Aquakil-50 Insecticide
			000334-00467	WW Insecticide Aqueous Pressurized Spray
			000334-00469	Hysan Aqua-Spray Residual Contact Spray
			000334-00470	Hysan Aqua-Stay Residual Contact Spray
			000334-00501	Hysan Aqua-Spray Concentrate
			000334-00523	E-Sect Liquid House & Garden Combination Insecticide
			000421-00309	Varco Resistant Roach Spray
			000421-00310	Varco Resistant Roach Spray
			000432-00432	SBP-1382 Aerosol Insecticide
			000432-00434	SBP-1382 Concentrate 40 for Manufacturing Use Only
			000432-00450	SBP-1382 Aqueous Pressurized Spray Insecticide 0.50
			000432-00451	Your Brand SBP-1382 Insecticide Spray 0.05
			000432-00453	Your Brand SBP-1382 Aerosol Insecticide 0.35
			000432-00456	Your Brand SBP-1382 Insecticide Spray 0.10
			000432-00485	SBP-1382/Bioallethrin Insecticide Concentrate 10%-5% Fo
			000432-00502	SBP-1382-40 MF
			000432-00503	SBP-1382 Insecticide Concentrate 10% Formula I
			000432-00504	SBP-1382 Oil Base Insecticide 0-20%
			000432-00505	24.3% SBP-1382-2 E.C.
			000432-00507	Your SBP-1382 Bioallethrin .20% .125% Aqueous Pres Spray
			000432-00508	SBP-1382/bioallethrin Insecticide Conc. 10%-10% Formula
			000432-00511	SBP-1382/bioallethrin Insecticide Conc. 30%-22.5% Formu
			000432-00513	SBP-1382/bioallethrin Insecticide Conc. 31%-19.5% Formu
			000432-00514	SBP-1382/bioallethrin Insecticide Conc. 27%-27% Formula
			000432-00515	SBP-1382/bioallethrin Insecticide Conc. 18%-48% Formula
			000432-00518	SBP-1382 Insecticide Concentrate 12% Formula I
			000432-00522	SBP-1382/bioallethrin Insecticide Concentrate 12% - 5.1
			000432-00523	24% SBP-1382 RS Residual Emulsifiable Concentrate
			000432-00524	SBP-1382/bioallethrin Insecticide Conc. 7.5%-5% Formula

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			000432-00528	SBP-1382/bioallethrin Insecticide Conc. 21.5%-43% Formula
			000432-00532	SBP-1382/bioallethrin 4-3 Transparent Emulsion Concentrate
			000432-00537	SBP-1382/bioallethrin Insecticide Concentrate 8%-16% Fo
			000432-00540	SBP-1382/bioallethrin Insecticide Conc. 10.10%-67.28% F
			000432-00542	SBP-1382 Bioallethrin(.20% + .40%) Aqueous Pressurized
			000432-00547	SBP-1382 3% Multipurpose Spray
			000432-00549	SBP-1382 Liquid Spray 0.50%
			000432-00560	SBP-1382 24.3% Emulsifiable Insecticide
			000432-00563	SBP-1382 Aqueous Pressurized Spray (0.25%)
			000432-00564	SBP-1382 Concentrate 12.5% Mp
			000432-00572	SBP-1382 4.35% Concentrate
			000432-00574	SBP-1382/Bioallethrin Concentrate 10-5
			000432-00576	SBP-1382/Bioallethrin Concentrate 10-3.75
			000432-00577	SBP-1382/Bioallethrin Concentrate 10-25
			000432-00596	SBP-1382 Insecticide 40 Mf Solvent Dil. Conc. Form.1
			000432-00606	SBP-1382 Insecticide Emulsifiable 26% Formula I
			000432-00609	SBP-1382-40 Mf Formula II Oil Base Concentrate
			000432-00610	SBP 1382 Insecticide Concentrate 40% Formula II
			000432-00664	Foliafume Insecticide with Rotenone/pyrethrins E.C. 1.1
			000432-00674	Ultratec Ins. W/chlorpyrifos/pyr/pbo Trans. E.C. 15-1.5
			000432-00689	SBP-1382 Insecticide Concentrate 3%
			000432-00693	SBP-1382/bioallethrin/P.B.O. Insecticide Concentrate 11.9-3.4-13.
			000475-00175	Black Flag Outdoor Fogger
			000475-00179	Black Flag Flying Insect Killer Improved Super Spray
			000475-00180	Black Flag House and Garden Insect Killer
			000475-00290	Liquid Professional Strength Residual Roach and Ant Killer
			000475-00313	CAI Hornet and Wasp Killer III
			000475-00317	CAI Wasp and Hornet Killer
			000478-00081	Real-Kill Kitchen Insect Protection
			000478-00085	Real-Kill Liquid Extra Strength Florida Formula Roach
			000478-00086	Real Kill Liquid House and Garden Bug Killer for House
			000478-00109	Real-Kill Extra Strength Roach & Ant Killer
			000478-00111	Real-Kill Household Extra Strength Roach & Ant Killer
			000499-00333	P/P Insecticide No.2
			000499-00334	P/P Insecticide No.4
			000499-00339	P/P Wasp and Hornet Spray
			000499-00341	P/P Residual House & Garden Insecticide
			000499-00342	P/P Outdoor Fogger with Repellent
			000499-00343	P/P Insecticide No. 32
			000499-00344	P/P Insecticide No. 33

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			000499-00345	P/P Insecticide No. 34
			000499-00346	P/P Insecticide No. 35
			000499-00347	P/P Insecticide No. 36
			000506-00149	Tat House and Garden Insect Killer Indoor & Outdoor
			000541-00199	Croaks Residual Insecticide Concentrate Water Emulsifia
			000572-00308	Rockland Weed & Grass Away
			000602-00209	Purina Space Mist Insecticide
			000690-00052	Perkerson S Blam SBP-1382 Liquid Spray 0.25%
			000788-00032	Borer & Worm Spray
			001021-01110	Pyrocide Grower Spray
			001270-00210	Zep Supersyn-5 Insecticide
			001270-00221	Zep Mini-Fog II
			001386-00584	Unico Fenthion Fly and Mosquito Spray
			001421-00167	Fogging LL-11 Concentrate
			001421-00184	Oil Base Pyrethroid Insecticide
			001553-00087	Momar Bug Out
			001553-00111	Imperial V Thermal Fogger
			001553-00131	Contract Bee, Wasp, & Hornet Killer
			001769-00297	National Chemsearch Tetra-Cide
			002217-00527	Methoxychlor Tree Spray
			002270-00703	Excelcide 3% Ultra Low Dosage Insecticide
			002270-00709	Exelcide Micro-Mist
			002491-00298	Holiday SBP-1382 Insecticide Spray 0.10
			002907-00010	Exo New Roach and Ant Killer
			002935-00451	Grass & Weed Killer
			002935-00457	Ready-To-Use Ant, Roach Flea and Spider Spray
			003181-00014	Aero-Master Super Fogging Insecticide 0.50% SBP-1382
			003282-00073	Kills Ants & Roaches Formula IX
			003442-00789	Greenup Borer Killer (bark Penetrating Type)
			003442-00820	Dursban-DDVP 1.25 Turf Insecticide
			003635-00182	Oxford Syntox
			003635-00183	Oxford Hydrocide
			003635-00184	Oxford Aquatox
			003635-00192	Oxford 514 Insecticide
			003635-00232	Oxford KO
			004077-00070	Orb #140 Industrial Insecticide
			004206-00038	Barcolene Ant & Roach Killer IV
			004708-00029	U-San-O Mothproofing Solution
			004816-00384	Synthrin Pressurized Insecticide Spray 0.25
			004816-00468	Pyrenone Plus Repellent
			004816-00624	Synthrin 40% Mosquito Formulation
			004822-00122	Johnson Yard Master Foam Insect Killer
			004822-00139	Johnson Wax Raid Professional Strength Household Flying
			004822-00141	Raid Flying Insect Killer Formula III
			004822-00181	Raid House & Garden Bug Killer Formula 8
			004822-00231	Raid Gypsy Moth & Japanese Beetle Killer II
			004972-00015	Don's D-K

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			004972-00017	Don's D-K Concentrated Do-It-Yourself Bug Killer
			005011-00060	Formula GH-18
			005197-00057	Sniper
			005481-00113	Durham Duraphos EM 4 Organophosphorus Insecticide
			005602-00169	Lethalaire V-26 Professional Insecticide
			005602-00170	Pro-Cide III Professional Insecticide
			005693-00037	Shield Hornet, Wasp and Bee Spray
			005887-00116	Black Leaf (R) House Plant Pressurized Spray
			005887-00119	Black Leaf Wasp & Hornet Pressurized Spray
			006269-00007	ETO-6 Insect Spray
			006720-00185	SMCP SBP-1382 (R) Insecticide Spray 0.10
			006720-00208	SBP-1382 Liquid Spray 0.25%
			006720-00210	SMCP 24.3% SBP-1382-2 E.C.
			006720-00212	40% SBP 1382 Mosquito Adulticide-ULV Oil Base Concentrate
			006720-00213	SMCP SBP-1382 ULV Insecticide
			006720-00224	SMCP Diazinon 12.5% Insect Spray
			006720-00309	X-It Formula 120
			006720-00343	AFC Professional Strength Ready-To-Use Spray
			006720-00351	Di-Azz Ready-To-Use
			006720-00352	Superior Econofog #28 MI
			006720-00360	Superior Dy-All
			006720-00378	Superior Point Two Fly Spray
			006720-00386	Superior SCP 1382-5 Synthetic Pyrethroid
			006720-00441	Fly Spray Concentrate
			006720-00458	Pratt 5% Landane Borer Spray
			006720-00459	Greenhouse & Plantscape EC2 Resmethrin Insect Spray
			006720-00466	Pratt Whitefly Spray for Indoor Plants and Outdoor Orna
			006720-00471	Resmethrin Mosquito Conc. 40
			006720-00473	Pratt Resmethrin 3 Insect Spray
			006720-00474	Pratt Wasp & Yellow Jacket Spray
			006720-00482	Pratt Plant Spray
			006720-00507	Science Diazinon Spray
			006959-00046	Cessco Brand High Pressure Aerosol Insecticide
			007122-00042	Guardian Malathion Emulsifiable Conc. 50%
			007122-00110	Guardian Diazinon 4 lb Concentrate WE
			007234-00126	Crown House and Garden Double Action Bug Killer
			007234-00141	Hopkins Dursban-Allethrin Spray
			007401-00372	Ferti-Loam Whitefly & Mealybug Killer
			007401-00419	Hi Yield Mole Cricket Killer
			007579-00002	Rid-A-Bird 1100
			007701-00051	Poly Spray Insecticide
			007701-00053	Synco Spray Insecticide
			007701-00061	Municipal Mosquito Fogger
			008123-00083	Indoor/outdoor Insecticide
			008329-00029	Clarke ULV Mosquitocide 731 Plus
			008329-00032	Flysray 514
			008590-00598	Agway Pressurized Spray Insecticide 0.25%

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			008612-00102	Syn-Py-3-LV
			008845-00018	Rid-A-Bug Brand Premixed C95 Do It Yourself HouseholdInsecticide
			008845-00020	Kenco Super Rid-A-Bug Brand Do It Yourself Insecticide
			008845-00031	Rid-A-Bug Flea and Tick Brand TF-5 Killer
			008845-00059	Hot Shot Wasp & Hornet Killer
			008845-00064	Hot Shot Prof. Strength Flying Insect Killer - Formula
			008845-00071	Hot Shot Fly & Mosquito Insect Killer
			008845-00073	Hot Shot Complete Treatment Bug Killer Formula 251
			008845-00076	Hot Shot Conplete Treatment Bug Killer Formula 231
			008845-00080	Hot Shot Complete Treatment Bug Killer-Formula 241
			008845-00086	Hot Shot Roach and Ant Killer Formula 121
			009143-00067	Liquid Spray Insecticide 250
			009688-00021	Insecticide for Flying Insects
			009754-00006	Sunbugger #6 Spray Concentrate
			010258-00004	Tigress Insecticide No. 4
			010292-00027	Venuscide Flying Insect Killer
			010370-00006	SBP-1382 Insecticide Spray 0.05 Synthetic Pyrathroid
			010370-00025	Ford's Commercial Spray
			010370-00065	Ford's Dursban 4E Insecticide
			010370-00069	SBP 1382-3 E C
			010370-00136	Staffel's Multi Purpose Spray
			010370-00243	Lawn & Ornamental Spray
			010370-00306	Blanco Zot ZF Wasp Spray Formula 2
			010370-00307	Blanco 0.2 Liquid Insecticide Spray
			010583-00011	Professional Strength Boot-Hill Quick Kill Residential
			010583-00021	Pyrethicide
			010806-00052	Roach & Ant Killer II
			010807-00009	Mr. Misty Flying Insect Killer
			010807-00011	Misty Sr Flying Insect Killer
			010807-00012	Misty, Jr. Flying Insect Killer
			010807-00013	Misty Aero Insect Patrol
			010807-00015	Knight Insect Guard
			010807-00016	Misty Accur-Spray Wasp & Hornet Killer
			010807-00049	Misty Residual & Flying Insect Killer
			010807-00074	Delete Multipurpose Spray 3%
			010807-00075	Misty Conquest
			010807-00077	Misty Sling-Shot Wasp and Hornet Killer
			010807-00079	Misty Residual Contact Spray
			010807-00082	Misty Control
			010807-00083	Misty Accur-Spray II Wasp & Hornet Killer
			010807-00101	Repco-Tox Space Spray Insecticide
			010807-00107	Fog Kill Oil Base Insecticide
			010807-00109	Mosquito & Fly Spray
			010807-00126	Misty Crack & Crevice Residual Spray with Dursban
			011289-00001	Do It Yourself Pest Control

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			011474-00009	Sun-Bugger #4
			011474-00010	Sun-Bugger #2
			011474-00023	Sunbugger #99 Fogger and Contact Spray
			011474-00030	Sungro Sunbugger Water Base Insecticide Spray
			011474-00040	Sungro Reside Du
			011556-00023	Co-Ral (coumaphos) Emulsifiable Livestock Insecticide
			011556-00099	Pro Kill Insecticide Dip for Dogs
			011715-00004	Speer Home & Garden Insect Spray with 25% SPB-1382
			011715-00016	Speer Formulation Diazinon Bug Killer
			011715-00028	Speer Flea Spray for Dogs & Cats
			011715-00040	Speer Food Plant Pressurized Insect Spray
			011715-00050	Speer Moth Proofer
			011715-00056	Speer Aqueous Pressurized Spray Professional Strength
			011715-00057	Speer House & Garden Insect Spray
			011715-00058	Speer Home and Garden Pressurized Spray
			011715-00059	Speer Aqueous Pressurized Spray
			011715-00075	Speer Pyrethroid Concentrate T-12/4 (Oil Dilutable)
			011715-00088	Speer Fogger and Contact Insecticide
			011715-00099	Magic Guard Ant & Roach Killer
			011715-00104	Speer Bee, Wasp, Hornet & Yellow Jacket Jet-Stream Kill
			011715-00110	Mug-A-Bug Professional Strength Insecticide
			011715-00158	Magic Guard with Rotenone and Pyrethrins
			013799-00018	Four Paws Rug-Bug Killer
			019713-00038	Drexel Parathion 8
			025030-00003	Red Panther Methyl Parathion 4 Lb. Emulsifiable Concentrate
			033176-00004	Airysol Residual Ant and Roach Insecticide
			033176-00030	Wasp & Hornet Killer Spray
			033764-00002	Plain Wrap House & Garden Bug Killer
			033764-00003	Plain Wrap Flying Insect Killer
			033764-00004	Plain Wrap Residual Ant & Roach Insecticide
			033955-00454	Acme Vegetation Killer
			033955-00527	Acme Pestroy 25% Methoxychlor
			033955-00538	Acme Wasp and Hornet Jet Spray
			034224-00014	Chemrite CR-177 Dedrite
			034911-00017	Hi-Yield Kill-A-Bug
			034956-00008	Gamma-Cide Residual Insecticide
			035054-00001	Term-Out Kills Termites Roaches Ants
			036272-00015	Mystic Roach and Household Insect Spray (aq)
			038664-00001	Archem Inc. Banish
			038664-00003	Banish Residual Insect Spray
			042057-00002	Wasco Brand Water Weed Killer
			042761-00005	Red Panther Diazinon Lawn & Garden
			044400-00002	Flying Insect Killer
			044400-00003	House & Garden Insect Killer
			045385-00083	Cenol Home Pest Control
			045385-00089	Cenol Space & Contact Spray
			047000-00010	2% Malathion Backrubber Solution

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			047000-00075	CPI House & Garden Insect Spray
			047834-00013	Heartland Freeze Brand Wasp + Hornet Spray
			047834-00014	Heartland Freeze Brand Wasp and Hornet Killer
			047834-00017	Heartland Flea & Tick Killer for Dogs
			048211-00012	Stomp-Out Prome-Con
			048211-00072	Kitten & Bear Brand Mosquito Fog Concentrate
			048211-00075	Kitten & Bear Syntha-Fog 20
			048668-00001	PPP Flea and Tick Dip
			050591-00005	Dura Dip
			051793-00001	Elite House & Garden Spray
			053719-00002	Bengal Flea Killer
			055947-00091	Zoecon Do-It-Yourself Rose and Ornamental Pest Control
			056644-00024	Security Household Insect Killer
			056644-00071	Security Brand Nature-Gard
			062811-00006	Lightning Ultra House and Carpet Spray
			003125 AL-84-0004	Guthion 2 L
			054952 AR-80-0001	Pramex 13.3% Emulsifiable Concentrate
			054952 AR-80-0023	SBP-1382 4.22 Mineral Oil Spray
			054952 AR-81-0009	SBP-1382 - 40 MF "Z" Oil Base Concentrate
			003125 AZ-79-0044	Chemagro Di-Syston 8
			003125 CA-77-0036	Di-Syston Liquid Concentrate Systemic Insecticide
			011053 CA-79-0113	Di-Syston Liquid Concentrate Systemic Insecticide
			011053 CA-79-0113	Chemagro Di-Syston 8
			008278 CA-81-0035	Soildrin Concentrate SBP 1382
			003125 CA-81-0044	Chemagro Di-Syston 8
			059623 CA-81-0065	Dow Dursban 4 E Emulsifiable Insecticide
			003125 CA-82-0103	Meta-Systox-R Spray Concentrate
			003125 CA-82-0104	Meta-Systox-R Spray Concentrate
			003125 CA-84-0192	Chemagro Di-Syston 8
			060368 CA-89-0035	Metasystox-R Spray Concentrate
			063232 CA-89-0038	Metasystox-R Spray Concentrate
			054952 DE-81-0001	SBP-1382 - 40 MF "Z" Oil Base Concentrate
			054952 DE-81-0013	SBP-1382 4.22 MF Formula 1 Mineral Oil Spray
			006720 FL-80-0006	(No product name)
			060182 FL-87-0017	Resmethrin EC 26 Insect Spray
			003125 GA-84-0004	Guthion 2 L
			003125 ID-77-0006	Meta-Systox-R Spray Concentrate
			003125 ID-78-0001	Meta-Systox-R Spray Concentrate
			054952 ID-81-0037	Pramex 13.3% Emulsifiable Concentrate
			054952 LA-80-0002	Pramex 13.3% Emulsifiable Concentrate
			003125 LA-82-0028	Guthion 2 L
			003125 MA-78-0002	Guthion 2S
			003125 ME-79-0006	Guthion 2S
			003125 MI-89-0004	Metasystox-R Spray Concentrate
			054952 MO-79-0013	Pramex 13.3% Emulsifiable Concentrate
			054952 MS-80-0004	Pramex 13.3% Emulsifiable Concentrate
			003125 MS-84-0012	Guthion 2 L
			003125 NC-86-0005	Chemagro Di-Syston 8
			003125 NJ-86-0005	Guthion 2S

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			003125 NM-79-0025	Meta-Systox-R Spray Concentrate
			003125 NV-77-0014	Meta-Systox-R Spray Concentrate
			003125 OH-81-0018	Guthion 2S
			003125 OH-89-0004	Metasystox-R Spray Concentrate
			003125 OR-77-0019	Meta-Systox-R Spray Concentrate
			003125 OR-77-0067	Meta-Systox-R Spray Concentrate
			000802 OR-78-0027	Miller's Mosquitocide 700
			054952 OR-79-0059	Pramex (R) 13.3% Emulsifiable Concentrate
			003125 OR-79-0067	Meta-Systox-R Spray Concentrate
			003125 OR-80-0071	Meta-Systox-R Spray Concentrate
			003125 OR-80-0079	Meta-Systox-R Spray Concentrate
			003125 OR-84-0032	Chemagro Di-Syston 8
			003125 OR-89-0004	Metasystox-R Spray Concentrate
			054952 SC-82-0019	Pramex(R) 13.3% Emulsifiable Concentrate
			003125 SC-82-0021	Guthion 2 L
			003125 TX-80-0024	Meta-Systox-R Spray Concentrate
			054952 TX-80-0040	SBP-1382 - 40 MF "Z" Oil Base Concentrate
			054952 TX-82-0008	SBP-1382 4.22 MF Formula 1 Mineral Oil Spray
			003125 TX-84-0005	Guthion 2 L
			003125 TX-86-0007	Chemagro Di-Syston 8
			003125 WA-77-0014	Meta-Systox-R Spray Concentrate
			003125 WA-77-0058	Meta-Systox-R Spray Concentrate
			003125 WA-80-0069	Meta-Systox-R Spray Concentrate
			003125 WA-80-0077	Meta-Systox-R Spray Concentrate
			054952 WA-80-0080	Pramex 13.3% Emulsifiable Concentrate
			003125 WA-84-0036	Chemagro Di-Syston 8
			003125 WA-85-0003	Meta-Systox-R Spray Concentrate
			003125 WY-87-0004	Chemagro Di-Syston 8
3020	Heavy aromatic naphtha	64742-94-5	000070-00067	Kill-Ko Mange Cure
			000070-00142	Kill-Ko Thiodan Emulsifiable Insecticide
			000070-00161	Kill-Ko Tobacco Saver No.2
			000070-00163	Kill Ko Lindane Concentrate
			000070-00180	Dursban Lawn & Ornamental Insect Spray
			000070-00232	Rigo Dursban 2EC Liquid Insecticide
			000070-00273	Zindane Multi-Purpose Spray
			000655-00588	Prentox Plant & Turf Insecticide
			001386-00594	Unico Thiodan 3 E.C.
			006720-00188	SMCP Aldrin EM-4
			008123-00033	Outdoor Insecticide (kills Resistant Mosquitoes, Flies
			010807-00073	Misty Weed Weapon
			010807-00144	Ex-It Emulsifiable Concentrate
			010807-00146	Weed-A-Cide Concentrate
			010827-00047	Formula 125
			028293-00119	Unicorn Malathion
			038664-00005	Archem Inc. Wasp & Hornet Killer
			038664-00006	Dead Veg
			044215-00138	DDVP Technical 50% Oil Concentrate
			051873-00015	Tobacco States Brand Six X Tobacco Spray
			051873-00016	Tobacco States Brand Six X Tobacco Spray No. 2 Formula

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			063823-00015	Baird's Malathion 5 Lb. Emulsifiable Concentrate
3020	Xylene	1330-20-7	000059-00123	Kil-A-Mite
			000100-00567	Ciba-Geigy Methidathion 50S
			000402-00118	Scorch
			000432-00740	Goldcrest Dulak I
			000572-00145	Malathion 57% Emulsifiable Concentrate
			000602-00036	Purina Poultry Insecticide
			000602-00046	Purina Malathion Spray (Premium Grade)
			000769-00218	Grain Protection Spray
			001421-00128	Hoch 30% Malathion In Oil
			001769-00258	National Chemsearch I-So-Sect
			003342-00081	Tiger Brand Malathion
			003468-00036	Water Weed Killer
			004691-00092	Screw Worm and Ear Tick Spray
			005481-00276	Royal Brand Beetle Buster
			005481-00412	Phosdrin 4EC Insecticide.
			005535-00073	Gro Well Organic Insecticide
			005535-00075	Gro-Well 25% Methoxychlor
			005602-00058	Hub States Dursban 4E Emulsifiable Insecticide
			005602-00097	Hub States Di-Tox E
			005602-00151	Di Tox Plus
			005887-00079	Black Leaf 25% Methoxychlor
			005905-00404	Helena Methochlor 3 E.C. Insecticide
			005905-00405	Helena Methoxychlor 2 E.C. Insecticide
			006175-00015	Benzyl-Dex L
			006175-00022	Benzyl-Dex
			006720-00371	Superior Dursban 4E Emulsifiable Concentrate
			006720-00372	Superior Dursban 2E
			006720-00373	Superior Turfban 2E
			006720-00465	Pratt Vegetation Killer (containing Pramitol)
			006720-00477	Malathion 2-Methoxychlor 2 EC
			006720-00502	Science 25% Methoxychlor Spray
			006959-00026	Triple Action Knock Down Quick Kill Res Kill Pre. Grade
			007122-00041	Guardian Lindane WE 20% (product No. 6102)
			007122-00070	Guardian Roban Residual Insecticide
			007234-00040	Forban 4 Emulsifiable Insecticide Concentrate
			007234-00086	Crown DZ-25 Insecticide
			007234-00136	Methoxychlor EM-2 Emulsifiable Concentrate
			008590-00228	Agway Malathion Insect Spray
			008590-00457	Agway Thiodan 3E
			010107-00009	Cythion 57% Premium Grade Malathion Grain Protection
			010370-00033	Foamspray Products 57% Malathion Emulsifiable Concentra
			010370-00052	Diazinon AG500 Insecticide
			010370-00068	57% Malathion
			010370-00260	Methoxychlor EM-2 Emulsifiable Concentrate
			010827-00038	Formula 57 FM
			010827-00044	Methox-Sol Emulsifiable Concentrate
			010827-00051	Prom-I-Sol
			011037-00011	Hacienda Malathion 50%

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			011037-00013	Hacienda Diazinon Insect Spray
			011556-00048	Lysoff Pour-On for Lice and Horn Flies
			011715-00105	Speer Vapona with Baygon One-Shot Fogger
			014775-00018	Diazinon AG50 Insecticide
			014775-00022	Asgrow Thirethrin 2 45045
			014775-00026	Asgrow Thiodan 2 Emulsive
			033955-00527	Acme Pestroy 25% Methoxychlor
			034052-00016	Tobacco States Brand 57% Malathion Emuls.
			034704-00639	Dizon 4 S Insecticide
			034704-00670	Methoxychlor 25 EC
			037425-00009	Adams Flea and Tick Dip
			042057-00100	Dursban(R) Insecticide
			042761-00015	Multi - Purpose Emulsifiable Malathion
			042761-00065	Parathion 8lb. E.C
			042761-00080	Methyl Parathion 7.5 EC
			042761-00104	Smith-Douglass Diazinon Insecticide AG500
			044215-00011	Nebcon No. 7-M Malathion Box Car Insecticide
			044215-00018	Aidex Methoxychlor 2E
			044215-00026	Aidex 2% Malathion
			044215-00048	Ethion-4E
			044215-00136	DDVP 50% Emulsifiable Concentrate
			044215-00137	DDVP 4 lb. Emulsifiable Concentrate
			044215-00147	Aquatic Weed Solvent No. 5-X
			049074-00003	Michlin MA-2 Methoxychlor Emulsifiable Solution
			050383-00014	Wilson Malathion 50% Insect Spray
			051793-00008	Elite Flea and Tick Dip II
			051793-00073	Elite Malathion 50% E.C.
			051873-00014	Tasco Brand 50% Malathion Emulsion Concentrate
			052466-00002	Malacide Concentrate
			055146-00034	Laoco Mala Mulsion 5
			055146-00037	Diazinon AG500 Insecticide
			062719-00010	Dursban 6
			062719-00018	Mosquito Fogging Concentrate
			063823-00001	Methoxychlor E-2
			010964 CA-76-0221	Ortho Dibrom 8 Emulsive
			057717 CA-79-0075	Dibrom 8E
			000464 CA-80-0009	Dow Termiticide Concentrate
			005481 CA-80-0180	Phosdrin 4EC Insecticide
			034704 CA-81-0001	Oxy Thiosulfan 2 EC Insecticide
			005481 CA-81-0003	Shell Phosdrin 4 EC Emusible Conc Insecticide
			010964 CA-83-0012	Cythion 5 EC
			010964 CA-83-0017	Diazinon AG-4 Insecticide
			010964 CA-83-0017	Diazinon AG 500 Insecticide
			005481 CA-86-0063	Phosdrin 4EC Insecticide
			005481 CA-86-0073	Phosdrin 4EC Insecticide
			000100 FL-77-0016	Geigy Diazinon AG 500
			000100 FL-78-0059	Geigy Diazinon AG 500
			FL-91-0002	Phosdrin 4EC Insecticide.
			063210 HI-77-0009	Geigy Diazinon AG 500
			000100 ME-77-0001	Geigy Diazinon AG 500

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			000100 ME-81-0003	Geigy Diazinon AG 500
			005905 NC-81-0037	Atlas Parathion 8-E An Emulsifiable Liquid
			034704 ND-79-0010	Parathion 8-E Emulsifiable Concentrate
			010107 NE-86-0014	Diazinon AG 500
			002935 NV-78-0004	Red-Top Methyl Parathion 5 Spray
			000100 OH-78-0002	Geigy Diazinon AG 500
			000100 OK-79-0010	Geigy Diazinon AG 500
			002935 OR-80-0089	Red-Top Diazinon 4 Spray
			000359 OR-84-0009	Mocap Liquid Nematocide - Insecticide
			034704 TX-76-0012	Parathion 8-E Emulsifiable Concentrate
			000100 TX-83-0016	D.Z.N. Diazinon AG 500
			002935 WA-76-0001	Red-Top Methyl Parathion 5 Spray
			000359 WA-85-0007	Mocap Liquid Nematocide - Insecticide
			000100 WV-78-0010	Geigy Diazinon AG 500
3024	Disodium 4-dodecyl-2,4'-oxydibenzenesulfonate	7575-62-4	001964-00012	New South's Phenolic Detergent
3024	Disodium 2,2'-oxybis(4-dodecylbenzenesulfonate)	5136-51-6	001964-00012	New South's Phenolic Detergent
3025	Benzaldehyde	100-52-7	002205-00004	Benzaldehyde Technical Grade
3035	*p*-tert-Butylphenol, sodium salt	5787-50-8	003635-00210	Oxford 1220 Bactericidal Detergent
			003635-00211	Oxford 1217
3036	2-Butoxyethanol	111-76-2	000788-00021	Quick Death 2
			001459-00027	Ack-Ack Residual Insect Spray
			002098-00027	Empire Slayz Residual Spray
			006720-00160	SMCP Industrial Roach & Ant Spray
			010395-00001	Attack A Residual Spray for Indust and Instit Use with
3037	Chloramine B	127-52-6	008132-00001	Rooto's Scented Bowl Cleaner
3040	4-Chloro-2-cyclopentylphenol	13347-42-7	000464-00348	Dow Dowicide 9 Germicide
			000541-00243	Mintene-5
			000892-00026	Germotox Disinfectant Deodorant
			001964-00012	New South's Phenolic Detergent
			005590-00135	Disinfectant Foam Cleaner for Hospital Use Germicidal
			005813-00027	Pump Strength Pine-Sol Spray Cleaner
3040	4-Chloro-2-cyclopentylphenol, sodium salt	53404-20-9	000052-00208	Germ Warfare Concentrated Detergent Germicide
3042	3-Chloro-4-biphenylol, sodium salt	31366-97-9	005197-00029	Pine 17 Pine Type Disinfectant Coef. 6
3043	4-Chloro-2-phenylphenol	(No CAS No.)	005736-00041	Bacto Loob
			009167-00008	Dynapine #5
3043	5-Chloro-2-biphenylol, sodium salt	10605-10-4	010204-00001	Pineteen Pine Type Disinfectant
3044	6-Chloro-2-phenylphenol	85-97-2	005736-00041	Bacto Loob
			009167-00008	Dynapine #5
3049	2-Ethoxyethyl p-methoxycinnamate	104-28-9	003870-00004	Ole Time Woodsman Kampers Lotion
3050	Coal tar neutral oils	65996-78-3	000363-00007	The C-4 Brand Zip Phenolic Disinfectant
			000363-00014	The C-4 Brand Black Creosote Coal Tar Solution
			038350-00001	Creolin General Purpose Disinfectant
			045086-00001	Kreso Dip No. 1
3050	Coal tar creosote	8001-58-9	000218-00132	Creosote Oil 24 CB
			000218-00136	Creosote Coal Tar Solution
			000218-00609	Creosote Oil
			001022-00256	Timpreg Pak Pol-Nu Type
			001022-00408	Chapman Pol-Nu 15-15 Penta Preservative Grease

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			003008-00013	Osmoplastic-F
			003008-00015	Osmoplastic - B
			003008-00051	Patox Pole Treating Bandage I
			003008-00056	Osmoplastic-D Wood Preserving Compound
			011554-00007	Columbia Awpa #1 Creosote Oil Dark Amber
			011554-00008	Columbia Creosote Oil Wood Preservative Black
			054774-00001	Trenton Creosote Oil
			055146-00020	Lacco Brand A.W.P.A. Creosote
			057344-00001	Creosote Oil
			057344-00005	60/40 Creosote Coal Tar Solution
			061468-00001	Coal Tar Creosote (pressure Applications)
			061468-00002	Koppers Special Oil (non-Pressure Application)
			061468-00003	Koppers 60/40 Creosote-Coal Tar Solution (pressureApplications)
			061468-00004	Coal Tar Creosote (non-Pressure Applications)
			061468-00005	Coal Tar Creosote (general Application)
			061470-00001	B-L Coal Tar Creosote
3053	Cyclohexanone	108-94-1	005887-00054	Black Leaf Borer Spray
3057	Orthodichlorobenzene	95-50-1	001203-00025	Foremost 4565 Bowl Cleaner
			001421-00041	Bowl Cleaner
			001421-00077	Emulsion Bowl Cleaner
3059	2,2'-Methylenebis(4-chlorophenol)	97-23-4	002382-00013	Parid Bomb
			002829-00027	Socci Cuniphen #2713
			002829-00030	Socci Cuniphen # 2721
			002829-00035	Socci Cuniphen #2762
			002829-00036	Socci Cuniphen #2778-I
			002829-00113	Cuniphen 2721-C Cationic Fungistatic Treatment for Text
			003090-00201	Sanitized Brand Syg Bacteriostat
			006009-00008	ECCO MP-2004
			006081-00005	Bol-Tabs (R)
			011556-00060	Para-S Bomb
			035951-00001	R.E.P.-60
			039291-00001	Abic Technical Dichlorophen
			041104-00002	Mildew Stop Spray
3059	Sodium 2,2'-methylenebis(4-chlorophenate)	10254-48-5	003090-00166	Sanitized TP for Industrial Use Only
3067	Diphenylstibene 2-ethylhexanoate	5035-58-5	003090-00176	Sanitized TV/2 for Industrial Use Only
3068	2,3,5,6-Tetrachloro-4-(methylsulfonyl)pyridine	13108-52-6	000464-00353	Dowicil S-13 Antimicrobial Agent
3078	2-(4-Isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl)-nicotinicacid	81334-34-1	000241-00295	Arsenal Herbicide 0.5 Granule
			000241-00308	Arsenal 5-G Herbicide
			000241-00338	Arsenal Herbicide Manufacturing Use Product
3079	Butyl 3,4-dihydro-2,2-dimethyl-4-oxo-2H-pyran-6-carboxylate	532-34-3	000499-00059	Whitmire's Ticks-Off Personal Insect Repellent
3081	Isobornyl acetate	125-12-2	000334-00454	Deo Quat P Disinfectant Deodorant Cleaner
3088	Methylated naphthalenes	1321-94-4	000004-00021	Rotosyn Rotenone Dust
			000004-00123	Bonide Mosquito Beater Area Mosquito Preventative
			002491-00277	Holiday 24% Technical Methoxychlor;2-MH Emulsifiable
			005535-00092	Gro-Well Borer Killer
			008123-00062	Ornamental Insecticide
			045385-00075	Cenol Premium Grade 50% Malathion Emulsifiable Concentr

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
3090	Methylene chloride	75-09-2	000499-00131	Whitmire's Wasp Stopper for Wasps
			009143-00014	Coldkill Wasp and Hornet Long Range Jet Spray
			011694-00052	Dymon Swh Wasp & Hornet Spray
3093	*N*-(2-Methyl-1-naphthyl)maleimide	70017-56-0	002829-00122	Vinyzene Atv-129
			002829-00124	Durotex-129
3096	2-Methyl-5-nitroimidazole-1-ethanol	443-48-1	001706-00167	Nalco 3WT-138 Anaerobic Microorganism Control Chemical
			008818-00004	Metronidazole
			010349-00031	Roban 3999
3101	Neomycin sulfate	1405-10-3	000622-00037	Mitox Liquid
3104	Camphor oil	8008-51-3	001394-00037	Bee Brand Insecticidal Shampoo
3104	Camphor	76-22-2	000397-00006	Steri-Dri Fumigant
			003870-00002	Ole Time Woodsman Liquid Fly Dope
3109	Tetrachloroethylene	127-18-4	000499-00131	Whitmire's Wasp Stopper for Wasps
			001421-00157	Mid South Thermal Fog Spray with DdVP Ready To Use
			009143-00014	Coldkill Wasp and Hornet Long Range Jet Spray
			011694-00052	Dymon SWH Wasp & Hornet Spray
3110	2-Phenylethyl propionate	122-70-3	005887-00142	Black Leaf Japanese Beetle Flora Lure
			036488-00019	Ringer Japanese Beetle Bait (floral Lure)
			051934-00001	Ellisco Double-Lure Japanese Beetle Bait
3113	Pine tar oil	8002-09-3	000891-00174	Yarmor 302 Pine Oil
			000891-00176	Yarmor 302W Pine Oil
			003870-00002	Ole Time Woodsman Liquid Fly Dope
			004823-00015	Pine Oil Disinfectant Phenol Coefficient 7
			008123-00011	Pine Odor Disinfectant
3117	Dehydroabietylamine - ethylene oxide condensate	51344-62-8	000861-00082	Sparkle Emulsion Bowl Cleaner
3118	Isooctylphenoxypolyethoxyethanol	9004-87-9	003635-00115	Oxford D' Germ Disinfectant Toilet Urinal Cleaner
			007401-00010	Ferti-Lome Malathion Garden Spray
3118	Nonylphenoxypolyethoxyethanol	9016-45-9	003635-00125	Oxford IX-91 Iodophor Concentrate
			005736-00003	Iodet Bactericidal Liquid Detergent
3121	Polyoxyethylene sorbitol, mixed ether ester of	(No CAS No.)	000228-00247	Good-Way Pyrethrin Concentrate
			004816-00335	Pyrenone Industrial Spray Emulsifiable Concentrate
			006720-00375	Omnicide N-T-X Concentrate
3121	Polyoxyethylene sorbitol oleate-laurate	53466-71-0	005440-00031	Concentrated Insecticide X 10-1
3121	Polyoxyethylene sorbitan monooleate	9005-65-6	004758-00029	Holiday Lustre Shampoo
			004758-00134	Holiday Concentrated Shampoo for Dogs and Cats
3129	Scilliroside	507-60-8	004941-00001	Rat-Nip
			006720-00314	AFC Red Squill Powder
3133	Strychnine sulfate	60-41-3	000814-00006	Force's Poison Peanuts
			000814-00011	Force's Mole Killer
3134	Sulfacetamide	144-80-9	000622-00037	Mitox Liquid
3135	*N*-(2-Quinoxalinyl)sulfanilamide	59-40-5	000995-00041	Ratorex with Prolin
			002006-00043	Good-Way Prolin Anticoagulant Rodenticide Rat and Mouse
			002006-00048	Good-Way Prolin Rat and Mouse Killer
			002393-00145	Hopkins Prolin Pellets Rat and Mouse Killer
			002393-00149	Hopkins Prolin Anticoagulant Concentrate
			002393-00166	Hopkins Warfarin Plus Sulfa Q Pellets

TABLE 2.— PHASE 2 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST C AND REGISTRATIONS TO BE CANCELLED—Continued

Case No	Chemical Name	CAS Registry no.	Registration no.	Product name
			002393-00363	Hopkins Prolin Pelleted Rat Bait
			002724-00154	Starbar Smax Rat and Mouse Bait Station
			002724-00445	R. B. #2 Kills Rats and Mice
			003487-00019	Eagles-7 Rat Bait
			005887-00030	Pelletized Warf with Prolin
			006720-00333	A.F.C. Prolin Rat Bait Ready-To-Use
			006720-00345	Superior W. W. 42 Rat & Mouse Poison
			007276-00001	New RMC Bait Kills Rats/mice with Prolin
			007276-00008	Rmc Soluble Prolin Kills Rats and Mice
			007276-00011	Rmc Super Bar
			007276-00014	RMC (tidbit Form) Rodent Bait Kills Rats and Mice
			007276-00016	RMC Rodent Bait Meat (bits Form)
			007276-00017	RMC Meat Bait
			007455-00012	Supersweet Rodent Rid contains Proline
			010370-00120	Staffel's Rats-N-Mice Bait
			012455-00015	Final Rat and Mouse Bait Pelleted
			017975-00001	Dean's Rat and Mouse Bait
			056176-00001	Nu-Bro Rat A Tac
3139	Terpineols (unspec.)	98-55-5	000334-00025	G-822 Mintene Disinfectant
			000334-00132	Hy-Pine 7 Disinfectant
			000334-00454	Deo Quat P Disinfectant Deodorant Cleaner
			001043-00046	Enviroquat
			001769-00194	National Chemsearch Sanaphene Disinfectant Coef 5
			004026-00005	Hiotrol Sanitizer
			008047-00001	Poly Mint
			010693-00004	Flo Kem Mint Disinfectant
3139	Turpentine	8006-64-2	017868-00001	Rover's Mange Medicine for Dogs
3140	Tetracaine hydrochloride	136-47-0	000622-00037	Mitox Liquid
3142	2-(2-Butoxyethoxy)ethyl thiocyanate	112-56-1	000004-00123	Bonide Mosquito Beater Area Mosquito Preventative
			000475-00156	Black Flag Insect Spray
			006720-00015	M/I Concentrate
			006720-00065	SMCP Outdoor Fog Insecticide
			006720-00352	Superior Econofog #28 ML
			006959-00020	Fog-Tox
			034704-00580	Hopkins Horse & Stable Insecticide
			041715-00015	Fum Kill Fog Oil Concentrate
			044215-00012	Thermal Fogging Conc No 10
3145	Tris(2-hydroxyethyl)amine	102-71-6	000499-00336	Pet Talk Flea & Tick Foam Shampoo
			001683-00025	Lemonee - 8 - Disinfectant
			001683-00026	Winta-Dis Disinfectan.
			007401-00264	Ferti-Lome Tender Leaf Green-House Plant Spray
3145	Triethanolamine oleate	2717-15-9	000655-00688	Prentox Cube Flea & Tick Dip
			001452-00003	Hilo Dip
3150	Ester gum	(No CAS No.)	002158-00002	Texasphaltic Copper Preservative
3150	Canadian balsam	8007-47-4	003870-00004	Ole Time Woodsman Kampers Lotion

IV. Intent to Remove Ingredients Unsupported During Phase Three from Reregistration Lists B and C, and to Cancel Active Registrations Containing these Ingredients

Of the nine List B active ingredients not supported in Phase Three, all still have currently registered products. Of the 10 List C active ingredients not supported in Phase Three, all still have currently registered products. These active ingredients and all associated registrations no longer being supported for reregistration because of a failure to comply with requirements in Phase Three are listed in Table 3. The EPA-assigned company number for each registrant appears to the left of each product name entry as the first element in each section 3 registration number or as a separate entry preceding each section 24(c) registration number. The names and addresses of these registrants appear in Table 4 elsewhere in this notice.

Ninety days after publication of this notice the ingredients in Table 3 will be removed from Lists B and C, and all associated registrations will be cancelled unless within that period someone takes advantage of the process set forth in section 4(d)(5) of FIFRA and described in Unit V of this document for preserving these registrations. Such support may not come from registrants who were responsible for submission of the original Phase Three response. However, commitments to support reregistration will be accepted from registrants who previously maintained a valid generic data exemption for their products, or other parties who acquire the rights to the affected registrations. The following Table 3 identifies the Phase Three unsupported active ingredients to be removed from Reregistration Lists B and C and those registrations which will be cancelled.

TABLE 3.— PHASE 3 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST B AND C AND REGISTRATIONSTO BE CANCELLED

Case No[1]	Chemical Name	CAS Registry no.	Registration no.	Product name
2050	Biphenyl	92-52-4	005412-00005	No.38 Citrus Pads-Biphenyl Treated
2115	Diethanolamine 4-chlorophenoxyacetate	53404-23-2	005481-00142	Alco Tomato Fix Concentrate
			005481-00186	Alco Tomato Hold
2190	Sodium 4,6-dinitro-o-cresylate	2312-76-7	000279-01853	Elgetol Fungicide & Apple Thinner
			063936 AZ-90-0005	Elgetol Fungicide & Apple Thinner
			000279 WA-86-0007	Elgetol Fungicide & Apple Thinner
2200	2,4-Dinitro-6-octyl° phenyl crotonate, 2,6-dinitro-4-octyl°phenyl crotonate and	39300-45-3	000004-00126	Bonide Flower-Vegetable 4-In-1 Spray
			000707-00053	Karathane WD
			000707-00071	Karathane Liquid Concentrate
			000707-00093	Dikar-Fungicide-Miticide
			000707-00095	Karathane Technical
			000829-00230	Sa-50 Brand Karathane Fungicide and Miticide
			000869-00136	Green Light Rose & Flower Dust
			007401-00060	Ferti-Lome Universal Garden Spray
			007401-00127	Ferti Lome Complete Rose Spray
			033955-00401	Acme Rose Dust
			042057-00013	Morgro Mildu-Cure
2240	Ethylene dichloride	107-06-2	000821-00003	Tri-X Garment Fumigant
			007401-00082	Ferti-Lome Tree Borer Killer
			058866-00007	KXL - A Combination Year Round Spray-An Insecticide Fungicide
2320	Monosodium 2,2'-methylenebis(3,4,6-trichlorophenate)	5736-15-2	030573-00004	Hexalint Liquid Fungicide for Cotton
2395	Octylammonium methanearsonate	6379-37-9	001769-00113	CGK-79 Crab Grass Killer
			002853-00007	Super Dal-E-Rad Amine Methanearsonate for Dallis Grass
			005535-00025	Gro-Well Crabgrass and Broadleaf Weed Killer
			005887-00017	Black Leaf Crabgrass Killer
			005887-00047	Black Leaf Crab Grass Killer Ready To Use
			006720-00437	Pratt Crabgrass & Broadleaf Weed Killer
2395	Dodecylammonium methanearsonate	53404-47-0	001769-00113	CGK-79 Crab Grass Killer
			002853-00007	Super Dal-E-Rad Amine Methanearsonate for Dallis Grass
			005535-00025	Gro-Well Crabgrass and Broadleaf Weed Killer
			005887-00017	Black Leaf Crabgrass Killer
			005887-00047	Black Leaf Crab Grass Killer Ready To Use
			006720-00437	Pratt Crabgrass & Broadleaf Weed Killer
2480	Tertiary butylamine pyridinethiol-1-oxide	33079-08-2	001258-00991	Omadine TBAO

TABLE 3.— PHASE 3 UNSUPPORTED ACTIVE INGREDIENTS TO BE REMOVED FROM REREGISTRATION LIST B AND C AND REGISTRATIONSTO BE CANCELLED—Continued

Case No[1]	Chemical Name	CAS Registry no.	Registration no.	Product name
			020375-00027	NCC-Biostat
3003	Alkenyl* dimethyl ethyl ammonium bromide *(90% C18', 10% C16')	(No CAS No.)	001839-00002	Onyxide 75%
3003	Dialkyl* dimethyl ammonium chloride *(as in fatty acids of coconut oil)	61789-77-3	010466-00020	Ultra Fresh U DD Cationic
			010466-00023	Ultrafresh 300 DD Cationic
			034688-00053	Arquad 2 C
3003	Alkyl* trimethyl ammonium chloride *(alkyl as in fatty acids of soybean oil)	61790-41-8	034688-00052	Arquad S
3018	p-Propenylanisole	104-46-1	000270-00220	Farnam Cat-Away Indoor Cat Repellent
			000270-00221	Farnam Dog-Away Indoor Dog Repellent
3027	Benzyl bromoacetate	5437-45-6	010445-00028	Merbac-35
3061	2,3:4,6-Bis-O-(1-methylethylidene)-.alpha.-L-xylo-2-hexulofuranosonic acid, sodium salt	52508-35-7	035977-00001	Atrinal Plant Growth Regulator
3087	N-(.alpha.-(Nitroethyl)benzyl)ethylenediamine, potassium salt	53404-62-9	010445-00029	Metasol J-26 Liquid
			010445-00052	H-700 Microbiocide
3089	1,1,1-Trichloroethane	71-55-6	000499-00207	Whitemire Wasp Stopper II
			004000-00094	Fireant Eradicator Kills Fireants
			011623-00025	Strike!
			011694-00052	Dynon SWH Wasp & Hornet Spray
			03734-00003	Fireant Killer and Nest Remover
			042389-00016	Fireant Killer
			044215-00139	Gabriel DDVP 90% Concentrate
			047006-00004	Orlik Fireant Killer T
			056058-00001	Fireant "Quick Kill"
			056716-00002	Fireant Killer
3100	2-Naphthol	135-19-3	008593-00001	Arlis Scalex
3132	Sodium fluoride	7681-49-4	000070-00063	Kill-KO Roach Powder
			001022-00256	Timpreg Pak Pol-Nu Type
			001258-00728	Sodium Fluoride Powdered
			003008-00013	Osmoplastic-F
			003008-00051	Patox Pole Treating Bandage I
			003008-00052	Patox-Lite
			003008-00053	Adz-Pad
			003008-00056	Osmoplastic-D Wood Preserving Compound
			003442-00767	Sodium Flouride Powder
			006409-00002	Original Professional Do It Yourself Exterminator's Kit
			006720-00302	Sodium Fluoride 40
			006720-00310	Fluo-Pyre Roach Powder
			006720-00321	Sodium Fluoride Tinted Blue
			045385-00018	Chem-Tox Waterbug & Roach Killer

[1]Active ingredients from List B are identified with case numbers in the 2000 series; those from List C with case numbers in the 3000 series.

V. Procedures for Preserving Registrations of Unsupported Ingredients

Section 4(d)(5) of FIFRA defines a process for preventing the removal from the reregistration process of active ingredients originally unsupported in Reregistration Phase Two, and for preserving the registration of products containing such ingredients. Although FIFRA does not specifically allow registrants who failed to submit an adequate Phase Two response to cure their deficiency at this time, the EPA has decided to allow such registrants one final opportunity to retain their registrations by now supplying a commitment to support the reregistration of their products.

EPA considers a lack of response during Phase Three to mean that registrants of products listed in Table 3 have withdrawn their original commitment to support reregistration. However, unlike failure to submit Phase Two responses, EPA is not offering another opportunity to current registrants who were responsible for submission of the original Phase Three response to retain their registrations. However, these registrations may be

transferred to potential data-supporters during the 90-day comment period.

Anyone who wishes to support an active ingredient proposed for delisting in this notice must:

1. Within 90 days of publication of this notice, obtain the rights to a product listed in Table 2 or 3—i.e., with the agreement of the current registrant, submit to EPA in conformance with 40 CFR 152.135, an application for a transfer of an existing active registration. The registrant will be required to complete steps 2 and 3 listed below.

2. Within 90 days of publication of this notice, provide to EPA the information listed in FIFRA section 4(d)(2) entitled "Notice of Intent to Seek or Not to Seek Reregistration".

3. Within 150 days of publication of this notice, comply with the provisions of section 4(d)(3), entitled "Missing or Inadequate Data", and with those of section 4(e)(1) entitled "Information About Studies". The registrant must also pay any fee prescribed by subsection 4(i)(1).

Anyone contemplating a commitment to support an ingredient listed in Tables 2 or 3 should consider carefully the full range of responsibilities involved in supporting an ingredient through reregistration. All gaps in the supporting data base must eventually be filled on a strict schedule and subject to EPA monitoring of progress.

Guidance and forms for Phase Two responses and payments of the reregistration fees may be obtained from the EPA contact person listed near the beginning of this notice. Small businesses and certain other registrants may be eligible for waivers of reregistration fees. In general, because of the variability and potential complexity of the reregistration process, anyone considering supporting one of these ingredients is strongly advised to discuss the circumstances of the individual case with the EPA before making a formal commitment.

Ninety days after publication of this notice, any active ingredients listed in Tables 2 and 3 for which the above procedure is not satisfactorily under way will be removed from their respective Reregistration Lists, and all registrations containing those ingredients will be cancelled by order and without hearing. If the requirements in Unit V.1, 2, and 3 of this notice are not satisfied within the specified timeframes, any affected ingredient will also be removed from Reregistration List B or C, and all registrations containing it will be cancelled.

The names and addresses of these registrants, in order of company number, appear in the following Table 4:

Table 4.—Registrants of Products Containing Active Ingredients to be Removed from Reregistration List C

EPA Company No.	Registrant Name and Address
000004	Bonide Products Inc., 2 Wurz Ave., Yorkville, NY 13495.
000052	W. Chemical Products, Inc., W. Penetone Corp., 74 Hudson Ave., Tenafly, NJ 07670.
000059	Coopers Animal Health Inc., 1201 Douglas Ave, Kansas City, KS 66103.
000070	Wilbur-Ellis Co., Box 16458, Fresno, CA 93755.
000100	Ciba-Geigy Corp., Box 18300, Greensboro, NC 27419.
000192	Dexol Industries, 1450 W 228th St., Torrance, CA 90501.
000211	Central Solutions, Inc., Box 15276, Kansas City, KS 66115.
000218	Allied Chemical Corp., Tar Products, Columbia Rd. & Park Ave., Morristown, NJ 07960.
000228	Riverdale Chemical Co., 425 W. 194th St., Glenwood, IL 60425.
000241	American Cyanamid Co., Agri Research Div - U.S. Regulatory Affairs, Box 400, Princeton, NJ 08543.
000270	Farnam Companies Inc., 301 W. Osborn Rd., Phoenix, AZ 85067.
000275	Abbott Laboratories, Dr. Joseph C. White Director, Regulatory Affairs, 14th & Sheridan Rd., North Chicago, IL 60064.
000279	Fmc Corp., Product Registration Acg, 2000 Market Street, Philadelphia, PA 19103.
000334	Dr. Kyle H. Sibinovic of Shaldra Biotest Inc., Agent For: Hysan Corp. (Iara ofc), Box 2610, W Bethesda, MD 20817.
000359	Rhone-Poulenc Inc. Agrochemical Division, 2 T. W. Alexander Drive Box 12014, Research Triangle Park, NC 27709.
000363	Coopers Creek Chemical Corp., W/S River Rd., West Conshohocken, PA 19428.
000397	Noble Pine Prods Co., Box 41 Centuck Station, Yonkers, NY 10710.
000402	Hill Mfg. Co., Inc., 1500 Jonesboro Rd SE, Atlanta, GA 30315.
000407	Imperial Inc., Box 98, Shenandoah, IA 51601.
000421	J.F. Daley International, Ltd., d/b/a James Varley & Sons, Inc., Box 13897, St Louis, MO 63147.
000432	Roussel Bio Corp., 170 Beaver Brook Rd., Lincoln Park, NJ 07035.
000464	The Dow Chemical Co., Reg. Compliance / Health & Environmental, 1803 Building, Midland, MI 48674.
000475	Boyle-Midway Household Products, Inc., 1655 Valley Rd, Wayne, NJ 07016.
000478	Realex, Box 15842, St. Louis, MO 63114.
000499	Whitmire Research Laboratories, Inc., 3568 Tree Ct Industrial Blvd, St Louis, MO 63122.
000506	Regwest Co., Agent For: Walco-Link Co., Box 2220, Greeley, CO 80632.
000541	Puritan/Churchill Chemical Co., 916 Ashby Street, N.W., Atlanta, GA 30318.
000572	Rockland Corp., 686 Passaic Ave. Box 809, West Caldwell, NJ 07007.
000602	Purina Mills, Inc., Box 66812, St Louis, MO 63166.
000622	Smithkline Beecham Animal Health, Box 971039, Miami, FL 33197.
000644	Exxon Co., U.S.A., Box 2180, Houston, TX 77252.
000655	Prentiss Drug & Chemical Co. Inc., 21 Vernon St.—c.b. 2000, Floral Park, NY 11001.
000690	Perk Products & Chemical Co., Inc., Box 100585, Nashville, TN 37210.
000707	Rohm & Haas Co., Agri. Chemicals Registration & Regulator, Independence Mall W., Philadelphia, PA 19105.
000769	Sureco, Inc., Royalgard Products Co. (subsidiary), Box 938, Fort Valley, GA 31030.
000777	L & F Products, 225 Summit Ave., Montvale, NJ 07645.
000788	Victory Chemical Co., 3942 Frankford Ave., Philadelphia, PA 19124.
000802	Chas H. Lilly Co., 7737 N.E. Killingsworth, Portland, OR 97218.
000814	Carajon Chemical Co. Inc., Box 167, Fremont, MI 49412.
000821	Haertel Co., 15151 Technology Drive, Eden Prairie, MN 55344.
000829	Southern Agricultural Insecticides, Inc., Box 218, Palmetto, FL 34220.
000861	Uncle Sam Chemical Co. Inc., 575 W 131st St, New York, NY 10027.
000869	Green Light Co., Box 17985, San Antonio, TX 78217.
000875	Diversey Corp., 1532 Biddle Ave., Wyandotte, MI 48192.
000891	Hercules Inc., Medical Department, Hercules Plaza, Wilmington, DE 19894.
000892	Pioneer Mfg. Co., 4529 Industrial Parkway, Cleveland, OH 44135.
000901	Airosol Co Inc., 525 North Eleventh St., Neodesha, KS 66757.
000995	Mackwin Co., 25 Mcconnon Dr., Winona, MN 55987.
001016	Union Carbide Corp., Box 12014 -T.W. Alexander Drive, Research Triangle Park, NC 27709.
001021	Mc Laughlin Gormley King Co., 8810 Tenth Ave North, Minneapolis, MN 55427.
001022	Science Regulatory Services International, Agent For: Chapman Chemical Co., K St NW Suite 975, Washington Dc, 20006.
001043	Calgon Vestal Laboratories, Division of Calgon Corp., Box 147, St Louis, MO 63166.
001203	Delta Foremost Chemical Corp., 3915 Air Park St., Memphis, TN 38130.
001258	Olin Corp., Box 586, Cheshire, CT 06410.
001270	Zep Mfg. Co., Box 2015, Atlanta, GA 30301.
001386	Universal Cooperatives Inc., Box 460 7801 Metro Parkway, Minneapolis, MN 55440.
001394	Mccormick & Co., Inc., 11350 Mccormick Rd., Hunt Valley, MD 21031.
001421	Dettelbach Chemical Co., Division of Hysan Corp., 4309 South Morgan Street, Chicago, IL 60609.
001452	Roccorp, Inc., Box 2945, North Canton, OH 44720.

Table 4.—Registrants of Products Containing Active Ingredients to be Removed from Reregistration List C—Continued

EPA Company No.	Registrant Name and Address
001459	The Bullen Companies, Box 37, Folcroft, PA 19032.
001553	Momar Inc.d, 1830 Ellsworth Industrial Drive, Atlanta, GA 30318.
001677	Ecolab Inc., 370 Wabasha St. Ecolab Center, St Paul, MN 55102.
001683	Harley Chemical Inc., S.E. Co 17th & Federal St, Camden, NJ 08105.
001706	Nalco Chemical Co., One Nalco Center, Naperville, IL 60563.
001769	Nch Corp., 2727 Chemsearch Blvd., Irving, TX 75062.
001839	Stepan Co., 22 W. Frontage Rd., Northfield, IL 60093.
001941	Elco Mfg. Co., c/o Kaw Valley, Inc., 1801 South 2nd Street, Leavenworth, KS 66048.
001964	New South Mfg. Co., Division of Hysan Corp., 4309 South Morgan Street, Chicago, IL 60609.
002006	Good-Way Insecticide Inc., Box 276b, Wheeling, IL 60090.
002098	Empire Chemical Co., 715 Lamar St, Los Angeles, CA 90031.
002155	I. Schneid, Inc., 1429 Fairmont Ave. N.W., Atlanta, GA 30381.
002158	Texasphaltic Co., 2038 Abundance Street, New Orleans, LA 70122.
002205	Dadant & Sons Inc., 102 Broadway, Hamilton, IL 62341.
002212	Legge Walter G Co. Inc., Box 591, Peekskill, NY 10566.
002217	PBI/Gordon Corp., 1217 W. 12th Street Box 4090, Kansas City, MO 64101.
002270	Huge' Co., Inc., The, 7625 Page Ave, St. Louis, MO 63133.
002292	Petrokem Corp., Box 2155, Paterson, NJ 07509.
002382	Virbac Inc., 2507 Gravel Dr, Fort Worth, TX 76118.
002393	Haco, Inc., d/b/a/ Hopkins Agricultural Chemical Co., Box 7190, Madison, WI 53707.
002491	Koos Inc., 4500 13th Ct, Kenosha, WI 53140.
002724	Zoecon Corp., A Sandoz Co., 12200 Denton Drive, Dallas, TX 75234.
002829	Morton International, Inc., Specialty Chemicals Group, 333 W. Wacker Drive, Chicago, IL 60606.
002853	Vineland Chemical Co., Inc., 1611 W. Wheat Rd., Vineland, NJ 08360.
002907	Heller, Arch C. Co., 242 B. Pembroke Ave, Lansdowne, PA 19050.
002935	Wilbur Ellis Co., Box 16458, Fresno, CA 93755.
003008	Osmose Wood Preserving, Inc., 980 Ellicott St, Buffalo, NY 14209.
003050	Coyne Chemical Co., 11358 Sunrise Gold Circle, Rancho Cordova, CA 95742.
003090	Sanitized Inc., 57 Litchfield Rd.-Route 202, New Preston, CT 06777.
003125	Mobay Corp., Agricultural Chemicals Division, Box 4913, Kansas City, MO 64120.
003150	Cetylite Industries Inc., 9051 River Rd., Pensauken, NJ 08110.
003181	Aero Master Inc., 325 W Pacific Ave, St Louis, MO 63119.
003282	D-Con Co. Inc., 225 Summit Ave., Montvale, NJ 07645.
003339	Parke-Hill Chemical Corp., 29 Bertel Ave, Mt Vernon, NY 10550.
003342	Cape Fear Chemicals, Inc., Box 695, Elizabeth Town, NC 28337.
003442	Laroche Industries Inc., Perimeter 400 - Center Two, 1100 Johnson Ferry Rd. N.E., Atlanta, GA 30342.
003468	Schall Chemical Inc., 120 N. Broadway, Montevista, CO 81144.
003487	Bacon Products Co. Inc., Box 22187, Chattanooga, TN 37422.
003525	Utikem Products, Division of Qualco, Inc., 225 Passaic Street Box 357, Passaic, NJ 07055.
003635	Oxford Chemicals, Box 80202, Atlanta, GA 30366.
003696	Dowbrands Inc., Box 368, Greenville, SC 29602.
003862	Abc Compounding Co., Inc., Drawer 585, Morrow, GA 30260.
003870	Pete Rickard, Inc., R.D. No.1 Box 292, Cobleskill, NY 12043.
004000	Southern Chemical Products Co., Subsidiary of Carroll Co., 2900 W. Kingsley Rd., Garland, TX 75041.
004026	Ferro Corp., Hedford Chemical Division, 7050 Krick Rd., Bedford, OH 44146.
004077	Orb Industries Inc., No.2 Race St (Box 1067), Upland, PA 19015.
004206	The Barcolene Co., 620 South St, Holbrook, MA 02343.
004313	Carroll Co., 2900 W. Kingsley Rd., Garland, TX 75041.
004691	Boehringer Ingelheim Animal Health Inc., Anchor Div, 2621 North Belt Highway, St Joseph, MO 64506.
004708	Laidlaw Corp., 1212 E. 5th Street, Metropolis, IL 62960.
004758	Pet Chemicals, Box 18993, Memphis, TN 38181.
004816	Fairfield American Corp., 809 Harrison Street, French Town, NJ 08825.
004822	S.C. Johnson & Son Inc., 1525 Howe Street, Racine, WI 53403.
004823	Maintenance Supply Co. Inc., Box 498, Huntersville, NC 28078.
004829	Poolchem, Inc., d/b/a Coastal Industries, 225 Passaic Street, Passaic, NJ 07055.
004941	Pest Control Products Division, Division of Hilo Products Div., Box 69, Big Indian, NY 12410.
004972	Protexall Products Inc., 1109-11 Hwy 427 N., Longwood, FL 32750.
005011	Carmel Chemical Corp., 17303 U.S. 31 North Box 406, Westfield, IN 46074.
005197	Systems General, Inc., Box 152170, Irving, TX 75015.
005412	Citrus-Pak Corp., 600 E. Landsteet Rd., Orlando, FL 32824.
005427	Wright Chemical Co., c/o Ashland Chemical Co., Box 2219, Columbus, OH 43216.
005440	Cardinal Chemical Co, 3171 Fitzgerald Rd, Rnch Cordova, CA 95742.
005481	Amvac Chemical Corp., 4100 E. Washington Blvd, Los Angeles, CA 90023.
005535	Adikes Inc. J & L, 182-12 93rd Ave, Jamaica, NY 11423.
005590	Chemspray Packaging, Inc., 5 Taft Rd., Totowa, NJ 07512.
005602	Hub States Corp., 419 E. Washington St., Indianapolis, IN 46204.
005664	Cantol Inc., 2211 N American Street, Philadelphia, PA 19133.
005693	Shield Packaging of California, Inc., 21 University Rd, Canton, MA 02021
005736	Joe D. Slone, Agent For: Dubois Chemicals Inc., 3630 E Kemper Rd, Sharonville, OH 45241.
005813	Clorox Co, Box 493, Pleasanton, CA 94566.
005831	Gilsonite Inc., 2946 Ne Columbia Blvd, Portland, OR 97211.
005887	Wilbur-Ellis Co., Box 9518, Fresno, CA 93792.
005905	Helena Chemical Co, 5100 Popular Ave.- Suite 3200, Memphis, TN 38137.
006009	E.ern Color & Chemical Co., 35 Livingston St., Providence, RI 02904.
006081	Geerpres, 1780 Harvey St., Muskegon, MI 49443.
006175	Agribusiness Marketers, Inc., 2667 W. Dual, Baton Rouge, LA 70814.
006269	Mission Kleensweep Products, 2434 Birkdale St, Los Angeles, CA 90031.
006409	U S Marketing Distributors, 408 W Elsegundo Blvd, Los Angeles, CA 90061.
006720	Southern Mill Creek Products, 5414 North 56th Street, Tampa, FL 33610.
006836	Lonza Inc., 17-17 Rte 208, Fair Lawn, NJ 07410.
006959	Cessco Inc., 1109 Central Ave Box 18452, Charlotte, NC 28218.
006962	Madison Bionics, Division of Systems General, Inc., 1630 E. Northgate, Irving, TX 75062.
007122	The Archem Corp., 1514 Eleventh St, Portsmouth, OH 45662.
007234	Forshaw Chemical Co., 650 State Street, Charlotte, NC 28208.
007276	Rmc Prod Co., Box 848, Ft Dodge, IA 50501.
007378	Skasol Inc., 1378 Ferguson Box 23589, St. Louis, MO 63133.
007401	Voluntary Purchasing Group, Inc., Box 460, Bonham, TX 75418.
007455	Agricultural Products Division, International Multifoods, Multifoods Tower Box 2942, Minneapolis, MN 55402.
007579	Rid-A-Bird, Inc., Box 436, Wilton, IA 52778.
007701	Chemical Specialties Inc., 149 W. Trigg Ave., Memphis, TN 38106.
007729	John Taylor Fertilizers Co, Box 15289, Sacramento, CA 95815.
007885	Zoe Chemical Co., 1801 Falmouth Ave, New Hyde Park, NY 11040.
008047	Poly Chem Inc., Box 10026, New Orleans, LA 70181.
008123	Frank Miller & Sons Inc., 13831 S Emeraid Ave, Chicago, IL 60627.
008132	Rooto Corp., 3505 W. Grand River, Howell, MI 48843.
008278	Metro Biological Lab, 8241 Gay St, Cypress, CA 90630.
008329	Clarke Mosquito Control Products Co, Inc., 159 N Garden Ave, Roselle, IL 60172.
008590	Agway Inc, Feed & Crops Div, Box 4741, Syracuse, NY 13221.
008593	Regwest Co, Agent For: The Arlis Co, Box 2220, Greeley, CO 80632.
008612	B & G Co., 10539 Maybank Dr Box 540428, Dallas, TX 75354.
008818	Searle, P O Box 5110, Chicago, IL 60680.

Table 4.—Registrants of Products Containing Active Ingredients to be Removed from Reregistration List C—Continued

EPA Company No.	Registrant Name and Address
008845	The Spectrum Group Division of, United Industries Corp., Box 15842, St Louis, MO 63114.
009143	Chemscope Corp., 3200 E. Randol Mill Rd., Arlington, TX 76011.
009167	Dynasurf Chemical Corp., 1411 Fleet St, Baltimore, MD 21231.
009647	Masury Columbia, 1140 E 103rd St, Chicago, IL 60628
009688	Chemsico, Box 15842, St Louis, MO 63114.
009754	Gro-Lyfe, 810 E. 18th Street, Los Angeles, CA 90021.
009871	Bosworth Co Harry J, 7227 N. Hamlin Ave., Skokie, IL 60076.
010107	Corn Belt Chemical Co., Box 410, Mccook, NE 69001.
010204	Marko, Inc., 1310 Southport Rd., Spartanburg, SC 29301.
010214	Coe Laboratories, Inc., A Member of The GC Group, 3737 W 127th St, Chicago, IL 60658.
010258	Spray Distributors, Inc., 11625 Mc Bean Dr., El Monte, CA 91732.
010292	Venus Laboratories, Inc., 855 Lively Blvd, Wood Dale, IL 60191.
010349	Nalco Chemical Co., Box 87, Sugar Land, TX 77487.
010370	Ford's Chemical & Service, Inc., 3741 Red Bluff Rd No.200, Pasadena, TX 77503.
010395	Barco Chemical, Inc., 14800 N W 24th Ct., Opa Locka, FL 33054.
010445	Calgon Corp., Calgon Center - Box 1346, Pittsburgh, PA 15230.
010466	Thomson Research Associates, Agent For: Beveridge & Diamond Pd, 1350 I St NW Suite 700, Washington, DC 20005.
010583	General Control Co. Inc., 3334 E. Pennsylvania St., Tucson, AZ 85714.
010693	Flo-Kem Inc., 19402 Susana Rd, Rancho Domunguez, CA 90221.
010806	Contact Industries Inc., 641 Dowd Ave., Elizabeth, NJ 07201.
010807	Amrep, Inc., 990 Industrial Dr, Marietta, GA 30062.
010827	Chemical Specialties Inc., Box 312, San Marcos, TX 78666.
010964	California Dept of Food &Agriculture, Pest Management Division Library, 1220 N Street Room A-400, Sacramento, CA 95814.
011037	Lisa O. Strong, 873 Foxfire Dr, Manteca, CA 95336.
011053	Imperial County, Agricultural Commissioner, 150 S 9th St, El Centro, CA 92243.
011289	Neuhaus Chemical Products Co., 5727 Mobud, San Antonio, TX 78238.
011474	Sungro Chemicals, Inc., Box 24632, Los Angeles, CA 90024.
011554	Columbia Paint Corp., 641 Jackson Ave., Huntington, WV 25728.
011556	Mobay Corp., Animal Health Division, Box 390, Shawnee Mission, KS 66201.
011623	Apollo Industries Inc., 1850 S. Cobb Industrial Blvd., Smyrna, GA 30082.
011694	Dymon, Inc., 3401 Kansas Ave.Box 6267, Kansas City, KS 66106.
011715	Speer Products Inc., Box 18993, Memphis, TN 38118
012204	Mid-American Research Chem. Corp., Box 927, Columbus, NE 68601.
012455	Bell Laboratories Inc., 3699 Kinsman Blvd, Madison, WI 53704.
013799	Four Paws Products Ltd, 50 Wireless Blvd., Hauppauge, NY 11788.
014775	Asgrow Florida Co, 4144 Hwy 39 N, Plant City, FL 33565.
015567	Creative Chemicals Inc., 3 Church Street, Palmer, MA 01069.
017868	Hubbard Chemicals, 224 W. Battle St. Box 174, Talladega, AL 35160.
017975	Dean Jerry Exterminating Co., 307 E. 8th St, Spencer, IA 51301.
018184	Sultan Chem Inc., 85 W. Forest Ave., Englewood, NJ 07631.
019713	Drexel Chemical Co., Box 9306, Memphis, TN 38109.
020215	Daniel R Freeman, 25 Kevin Lee Lane, Rancho Mirage, CA 92270.
020375	Nutmeg Technologies, Inc., Box 309, New Haven, CT 06513.
025030	M F C Services, Box 500, Madison, MS 39110.
027581	Midland Research Lab., Inc., 10850 Mid America Ave., Lenexa, KS 66219.
028293	Unicorn Laboratories, 1002 118th Ave N, St. Petersburg, FL 33716.
030573	Wright Webb Corp., Box 1572, Fort Myers, FL 33902.
032465	Smith Distributing Co., 15740 Texaco Street, Paramount, CA 90723.
033176	MBL Industries Inc., c/o Ian Gecker & Assocs, 3600 W. Carriage Dr, Santa Anna, CA 92704.
033764	Aerosol Services Co Inc., 425 S 9th Ave, City Of Industry, CA 91746.
033955	PBI Gordon Corp., Box 4090, Kansas City, MO 64101.
034052	H. Wilson Mfg. Co., Box 481, Jefferson, GA 30549.
034224	Chemrite Corp., 12600 S Daphne, Hawthorne, CA 90250.
034688	Akzo Chemicals, Inc., 300 South Riverside Plaza, Chicago, IL 60606.
034704	Platte Chemical Co., 419 18th St. (80632) Box 667, Greeley, CO 80632.
034911	Hi-Yield Chemical Co., Box 460, Bonham, TX 75418.
034956	Royal Chemical Co., Box 16899, Memphis, TN 38116.
035054	Makiki Electronics, 53-014D Makao Rd, Hauula, HI 96717.
035576	Enterprise Sales Co., 919 E. Third St., Los Angeles, CA 90013.
035951	Condition-Air Co., Inc., 6405 Telegraph Rd. Bldg. "D", Suite 1, Birmingham, MI 48010.
035977	Maag Agrochemicals, Box 6430, Vero Beach, FL 32961.
036272	Mystic Chemical Products, 3561 W. 105th Street, Cleveland, OH 44111.
036488	Attack Pesticides, Division of Ringer Corp., Box 35240, Minneapolis, MN 55435.
037347	Uni-Chem Corp. of Florida, c/o H.R. McLane Inc., 7210 Red Road, Suite212A, Miami, FL 33143.
037425	Alan Wagner, Agent For: Smithkline Beecham Animal Health, Box 971039, Miami, FL 33197.
038350	Oakhurst Co., 3000 Hempstead Turnpike, Levittown, NY 11756.
038664	Archem, Inc.d, Box 1490, Conway, AR 72032.
039291	Landis International Inc., Agent For: ABIC Ltd., Box 5126, Valdosta GA 31603.
041104	Guardsman Products, Inc., Consumer Products Group, 2960 Lucerne Drive, S.E., Grand Rapids, MI 49506.
041715	Riverside Chemical Co, Box 17199-871 Ridge Lake Blvd, Memphis TN 38117
042057	Morgro Chemical Co., Box 651048, Salt Lake City, UT 84165.
042389	Gold Coast Chemical Corp., 3301 • 29th Ave., Hollywood, FL 33020.
042761	Universal Cooperatives Inc., Agent For: Red Panther Chemical Co, Box 460, Minneapolis, MN 55440.
043670	Interface Research Corp., 100 Chastain Center Blvd, Suite 165, Kennesaw GA 30144.
043694	C. Leon Davis, Route 2 Box 295, Pikeville, NC 27863.
043701	Unilabs, Inc., 1404 "B" Ave., Sioux Falls, SD 57104.
044215	John W. Kennedy Consultants Inc., Agent For: Kaw Valley Inc., 9101 Cherry Lane Suite 113, Laurel, MD 20708.
044400	Armis Co., Division of Hysan Corp., 4309 South Morgan Street, Chicago, IL 60609.
044446	Quest Chemical Corp., 12255 F.M. 529 Northwoods Industrial Park, Houston, TX 77041.
045086	Kreso, Inc., Elmwood Park Station Box 6745, Omaha, NE 68106.
045385	Chem-Tox Inc., 481 Scotland Rd, Mchenry, IL 60050.
045388	King Chemical Co. Inc., Box 1877, Salina, KS 67402.
046078	Fruit Builder, Inc., 1016 Appleland Drive, Wenatchee, WA 98801.
047000	Chem-Tech, Ltd, 4515 Fleur Dr. No.303, Des Moines, IA 50321.
047006	Phaeton Corp., 1000 118th Ave. North, St. Petersburg, FL 33716.
047834	Heartland Industries Inc., Box 687, Walnut, CA 91789.
048211	Intercon Chemical, 3647 Bell Ave., St. Louis, MO 63108.
048668	Professional Pet Products, 1873 N.W. 97th Ave., Miami, FL 33172.
049074	Michlin Diazo Products Corp., 10501 Haggerty St., Dearborn, MI 48126.
050383	Meagley, Philips, Lytle, Hitchcock, Blaine & Huber, Agent For: Wilson Laboratories Inc., 3400 Marine Midland Center, Buffalo, NY 14203.
050591	Davis Mfg., 541 Proctor Ave., Scottsdale (atlanta), GA 30079.
051532	Mckay Mfg, 1920 Randolph St., Los Angeles, CA 90001.
051557	Chemlink Petroleum, Division of Pony Industries, Inc., 9101 W 21, Sand Springs, OK 74063.
051793	Elite Mfg. & Packaging Inc., 225 Horizon Drive, Suwanee, GA 30174.
051873	Fair Products Inc., Box 386, Cary, NC 27511.
051934	Trece, Inc., 1143 Madison Lane Box 6278, Salinas, CA 93912.
052466	Horse Health Products, Inc., Box 311, Aiken, SC 29802.

Table 4.—Registrants of Products Containing Active Ingredients to be Removed from Reregistration List C—Continued

EPA Company No.	Registrant Name and Address
052779	Magna Technologies, Inc., 1400 Fox Hill Rd., State College, PA 16803.
053719	Bengal Chemical, Inc., Box 40487 Box 40487, Baton Rouge, LA 70835.
054774	Trenton Sales Inc., 2646 South Loop W., Suite 445, Houston, TX 77054.
054952	Penick Corp., 158 Mt. Olivet Ave., Newark, NJ 07114.
055146	Agtrol Chemical Products, 7322 Southwest Freeway, Suite 1400, Houston, TX 77074.
055947	Sandoz Crop Protection Cororation, 1300 E. Touhy Ave., Des Plaines, IL 60018.
056058	Dihoma Chemical & MFG Co., Rte. 3, P.O. Box 375, Mullins, SC 29574.
056176	E-Z Products Co, Box 169, Manson, IA 50563.
056644	Security Products Co. of Delaware, Inc., d.b.a. Security Products Co, 485 Oak Place Suite 370, Atlanta, GA 30349.
056716	Rogers Consumer Products, Inc., Hwy 36 at Joseph Road, P.O. Box 2628, Covington, LA 70434.
057344	Aristech Chemical Corp., Coal Chemicals Unit, 600 Grant Street, Pittsburgh, PA 15230.
057717	Del Monte Foods, Pest Management Programs, 205 North Wiget Lane Box 9004, Walnut Creek, CA 94598.
058087	Gro Chemical Co., Division of Conmark Inc., 3530 N.W. 31st Street, Miami, FL 33142.
058866	Proguard Inc., Box 57, Salinas, CA 93902.
059623	See 10964 Calif. Dept. of Food & Agri., 1220 N St, Sacramento, CA 95814.
060182	The Land, Epcot Center, Box 10,000, Lake Buena Vista, FL 32830.
060368	Robert E. Jones, 41 Wanda Way, Martinez, CA 94553.
061468	Koppers Industries , Inc., 436 Seventh Ave., Pittsburgh, PA 15219.
061470	Kmg-Bernuth Inc., Agent For: Ruetgerswerke Ag, 10611 Harwin Suite 402, Houston, TX 77036.
062719	Dowelanco, Quad IV 9002 Purdue Rd., Indianapolis, IN 46268.
062811	Innotech, Inc., 10502 N.W. Ambassador Dr. Suite 200, Kansas City, MO 64153.
063210	Dole Packaged Foods Co., 801 Dillingham Blvd, Honolulu, HI 96817.
063232	Natures Harvest, Marquita Ave. Box 717, Templeton, CA 93465.
063823	Management Contract Services, Inc., Box 5209, Valdosta, GA 31603.
063936	Arizona Apple Growers Association, Box 248, Willcox, AZ 85643.

VI. Impact of Anticipated Cancellations

Of the unsupported active ingredients from Reregistration Lists B and C identified in this notice, approximately one-third have no currently active registrations and have had no production in the past few years. Therefore, their removal is expected to have a negligible impact on users or any other group. The significance of the potential cancellation of the products for the remaining two-thirds of the active ingredients is harder to assess. Of these, most have had reported annual production of less than 100,000 pounds while a few have had reported annual production between 100,000 and 1 million pounds. Only one had reported annual production greater than 1 million pounds. Of course, an ingredient may be important for minor uses even with very low production, but, information available to EPA does not permit reliable identification of ingredients or specific products of potential significance for minor uses.

The EPA is concerned about possible impacts on minor uses and hopes that by giving this opportunity to original or new registrants to commit to support pesticides, this notice will provide a way for users and others who might be affected by the loss of a product to protect themselves. To lessen any possible impact on minor uses, EPA has decided to allow 90 days following publication of this notice for affected persons to commit to support reregistration of such affected pesticides. This 90–day comment period is being offered although FIFRA 4(d) requires only a 60–day period for such comment. The EPA is making a special effort to communicate this opportunity. In addition to publishing this notice in the **Federal Register**, copies are being sent to minor use organizations, to the States, to the U.S. Department of Agriculture, to the Food and Drug Administration and to other parties who have previously expressed concern for minor uses.

When registrations disappear as a result of the action proposed in this notice, the cancellation orders will generally permit registrants to continue to sell and distribute existing stocks of the cancelled products for 6 months after the cancellation becomes effective, or approximately 9 months from the publication date of the **Federal Register** notice unless otherwise specified. Existing stocks are defined as those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of cancellation. The effective date of cancellation will be the date of the Cancellation Order. Dealers and users will be allowed to sell or use such stocks until they are exhausted. These general provisions should serve in most cases to cushion the impact of these cancellations while the market adjusts.

VII. Deletion of Erroneous Entry from List C

The active ingredient commonly known as Imazapyr, chemical name, (isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl)-nicotinic acid), and identified as case 3078, was included on Reregistration List C by error. Products containing Imazapyr were registered after November 1, 1984. Since reregistration applies only to active ingredients in products registered prior to November 1, 1984, this active ingredient is not subject to reregistration. It will be removed from Reregistration List C.

Dated: September 25, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 91–23968 Filed 10–3–91; 8:45 am]

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federal register

Friday
October 4, 1991

Part V

Environmental Protection Agency

Dicofol; Proposed Revocation of Food Additive Regulation; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 185

[OPP-300238; FRL 3943-8]

Dicofol; Revocation of Food Additive Regulation

AGENCY: Environmental Protection Agency (EPA, the Agency).

ACTION: Proposed rule.

SUMMARY: This document proposes revocation of the food additive regulation for residues of the pesticide dicofol (1,1-bis(p-chlorophenyl)-2,2,2-trichloroethanol), in or on dried tea. This proposed action is being initiated because the Agency has determined that this food additive regulation is inconsistent with the Delaney clause of section 409 of the Federal Food, Drug, and Cosmetic Act. The estimate of risk based on available data shows a risk greater than the *de minimis* levels allowed by the Delaney clause. Manufacturers of dicofol have not submitted and did not commit in a timely manner to submit acceptable data showing the food additive tolerance is within the *de minimis* exception to the Delaney clause of section 409.

DATES: Written comments, identified by the document control number [OPP-300238], must be received on or before January 2, 1992.

ADDRESSES: By mail, submit comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this document may be claimed confidential by marking any or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in rm. 1128 at the address given above, from 8 a.m until 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Ann Sibold, Special Review and Reregistration Division (H7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Special Review Branch, 3rd floor Crystal Station Building #1, 2800 Jefferson Davis Highway, Arlington, VA. 22202. (703) 308-8025.

SUPPLEMENTARY INFORMATION:

I. Introduction

EPA is proposing to revoke the food additive regulation for residues of the pesticide dicofol (1,1-bis(p-chlorophenyl)-2,2,2-trichloro-ethanol) in or on dried tea, under section 409 of the Federal Food, Drug, and Cosmetic Act (FFDCA). Documents referred to in this proposal are available in the administrative record at the address listed in Unit V. of this preamble.

II. Legal Background

The FFDCA (21 U.S.C. 301 et seq.) authorizes the establishment of tolerances (maximum legal residue levels), exemptions from tolerances, and food additive regulations for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Under the Reorganization Plan, No. 3 of 1970, 4 Stat. 3086, which established EPA, the authority to set tolerances for pesticide chemicals in or on raw agricultural commodities and processed food under sections 408 and 409 of the FFDCA was transferred from the Food and Drug Administration (FDA) to EPA. The FDA retains the authority to enforce the tolerance and food additive provisions under this Plan.

Without such a tolerance, exemption from tolerance, or food additive regulation (sometimes referred to as a "tolerance"), a food containing pesticide residues is "adulterated" under section 402 of the FFDCA, and may not legally be moved in interstate commerce (21 U.S.C. 342). Under section 408, tolerances or exemptions from tolerances are established for pesticide residues in raw agricultural commodities. Food additive regulations for pesticide residues in processed foods are established under section 409. A food additive regulation is necessary for a pesticide residue in processed food if the concentration of the pesticide residue is greater than the tolerance prescribed for the raw agricultural commodity or if the processed food is treated with a pesticide.

Section 408 Factors

To establish a tolerance or an exemption under section 408 of the FFDCA, the Agency must make a finding that the promulgation of the rule would "protect the public health" (21 U.S.C. 346a(b)). In reaching this determination, the Agency is directed to consider, among other relevant factors: (1) The necessity for the production of an adequate, wholesome and economical food supply; (2) other ways in which the consumer may be affected by the pesticide; and (3) the usefulness of the pesticide for which a tolerance is sought. Thus, in essence, section 408 of the FFDCA gives the Agency the authority to balance risks against benefits in determining appropriate tolerance levels. The Agency is permitted to set a tolerance at zero "if the scientific data before the Administrator does not justify the establishment of a greater tolerance" (21 U.S.C. 346a(b)).

Section 409 Factors

The establishment of a food additive regulation under section 409 requires a finding that use of the pesticide will be "safe" (21 U.S.C. 348(c)(3)). Relevant factors in this safety determination include: (1) The probable consumption of the pesticide or its metabolites; (2) the cumulative effect of the pesticide in the diet of man or animals, taking into account any related substances in the diet; and (3) appropriate safety factors to relate the animal data to the human risk evaluation. Section 409 contains the Delaney Clause, which specifically provides that, with very limited exceptions, no additive is deemed safe if it induces cancer when ingested by man or animals.

Under sections 408 and 409 of the FFDCA, the proponent of a tolerance or a food additive regulation has the burden of providing data establishing the safety of the pesticide for which a tolerance (or food additive regulation) is sought (21 U.S.C. 346a(d)(1), 348(b)(2)). As noted by both the House and Senate reports:

> Before any pesticide-chemical residue may remain in or on a raw agricultural commodity, scientific data must be presented to show that the pesticide chemical is safe from the standpoint of the consumer. The burden is on the person proposing the tolerance or exemption to establish the safety of such pesticide chemical residue.

H.R. Rept. No. 1385, 83rd Cong., 2nd Sess. at 5 (1954); S. Rept. No. 1635, 83rd Cong., 2nd Sess. at 4 (1954); Accord H.R. Rept. No. 13254, 85th Cong., 2nd Sess. at 5 (1958) ("The Secretary would deny a petition to establish the safety of (a food) additive if the data before the Secretary fail to establish that the proposed use of the additive under the specified conditions of use will be safe."). Once a tolerance (or food additive regulation) has been established, the burden of

demonstrating the continued safety of the pesticide residues authorized by the rule remains with the proponent of such rule (40 CFR 179.91) (*Environmental Defense Fund v. Department of Health, Education and Welfare*, 428 F.2d 1083, 1092 n. 27 (D.C. Cir. 1970)).

For a pesticide to be sold and used in the production of a food crop or an animal in the United States, the pesticide must not only have appropriate tolerances under the FFDCA, but must also be registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136a (c) (5)). FIFRA requires the registration of all pesticides which are sold and distributed in the United States. The statutory standard for registration is that, among other things, the pesticide performs its intended function without causing "unreasonable adverse effects on the environment (including people)" (7 U.S.C. 136 (bb)).

A pesticide may be sold and used exclusively outside the United States in the production of food from plant crops and animals without a registration under FIFRA. Food grown abroad and imported into the United States, however, is governed by the FFDCA. Thus, if an imported food contains a pesticide residue for which no tolerance exists, the food is considered adulterated.

III. Regulatory Background

Dicofol is an acaricide (miticide) registered for use under FIFRA on a number of sites, including food and non-food crops. The primary domestic uses are cotton, citrus, and apples. Dicofol is not registered in the U.S. for use on tea, but is used in other countries for that purpose. A food additive regulation (section 409 tolerance) of 45 ppm for dicofol on dried tea is codified at 40 CFR 185.410. (There is no section 408 tolerance because tea is not consumed in an unprocessed form).

The carcinogenicity of dicofol has been the subject of several reviews within EPA. A Special Review was initiated in 1983 and concluded in 1986 (51 FR 19508, May 29, 1986). The purpose of the Special Review process is to determine whether to initiate procedures to cancel, deny, or reclassify registration of a pesticide product because uses of that product may cause unreasonable adverse effects on the environment, including human health. EPA's Cancer Assessment Group (CAG) published a review of dicofol in 1986. The carcinogenicity findings of the Special Review and a draft of the CAG report were reviewed by the Scientific Advisory Panel (SAP) in 1985 (50 FR 33008, August 15, 1985 and 51 FR 19522, May 29, 1986). The Carcinogen Risk Assessment Verification Effort (CRAVE), an agency work group and peer review panel, evaluated the CAG report on August 5, 1987. These reviews are discussed in unit IV. B. below.

On May 25, 1989, the State of California, the Natural Resources Defense Council, Public Citizen, the AFL-CIO, and several individuals filed a petition which asked the Agency to revoke food additive regulations for seven potentially carcinogenic substances, including the food additive regulation for dicofol on dried tea. Petitioners argued that these food additive regulations should be revoked because the seven pesticides to which the regulations applied were animal carcinogens and thus the regulations violated the Delaney clause of section 409 of the FFDCA.

EPA responded to the petition on April 18, 1990 (55 FR 17560). EPA stated that the classification of dicofol ranged from a possible to a probable human carcinogen, and the individual excess dietary lifetime risk from dried tea was estimated at 5×10^{-4}. The key assumptions used for this estimate were: (1) That residues on dried tea were at the levels specified in 40 CFR 185.410 and (2) that 100 percent of the tea crop was treated (and thus all the tea consumed in the United States was also treated). Because of the conservative assumptions used to arrive at this value, EPA believed this value was a worst-case estimate. EPA expected that additional data on field residues and processing were likely to reduce this estimate.

In its response, EPA proposed to deny the petition to revoke the food additive regulation for dicofol on dried tea for the following reasons. The existing risk estimate for dicofol on dried tea was judged by EPA to overestimate actual dietary exposure to dicofol. The petition response noted that additional residue data, including field trials and processing data (a brewing study) were requested from the U.S. manufacturers of dicofol. Since there were no U.S. registrations for dicofol on tea, EPA had no authority under FIFRA section 3(c)(2)(B) to require these data. However, EPA gave notice that it would "propose the revocation of the section 409 tolerance for dicofol on dried tea if the manufacturers, or other interested parties, do not provide these data." (55 FR 17568, April 25, 1990). EPA stated that the risk estimate would be refined using the anticipated field trial and processing data. After completion of the risk assessment, EPA would determine the need, if any, for regulatory action.

On May 22, 1990, the petitioners filed Objections to EPA's Petition Response. The petitioners' central objection was that EPA had incorrectly interpreted section 409 by reading a *de minimis* exception into the Delaney clause.

On February 25, 1991, EPA issued its final order (56 FR 7750) reaffirming its interpretation of the Delaney clause. EPA also ruled on whether specific pesticide uses fall within the *de minimis* exception. In the specific case of dicofol residues on dried tea, with estimated risk at a level of 10^{-4}, the Agency concluded that it would take immediate steps to revoke the dicofol food additive regulation for dried tea. EPA noted that Rohm and Haas, a dicofol manufacturer, had submitted data on field residues and processing. However, upon their examination, EPA determined that the data were simply a reworking of previously submitted data, and were judged inadequate for determining the anticipated residues of dicofol in brewed tea for the following reasons. The field trial data and tea brewing data were generated in the early 1960s. The requirements for providing adequate field trial studies on crops have changed substantially since that time. These studies, although adequate then, are no longer acceptable by today's standards and requirements. As an example, these data are deficient in the areas of sample handling and storage of samples (field treated, control, and fortified) for both field trials and brewing studies, before analysis for residues.

Further, Rohm and Haas did not make a timely commitment to provide the new data. Under these circumstances, EPA stated it would not exercise its discretion to wait for data bearing on the level of risk, and would proceed to revoke the food additive regulation. However, EPA stated that, in the future, if Rohm and Haas or any other party were to produce the necessary data for EPA's review, EPA would consider whether a food additive regulation for dicofol on dried tea should be re-established.

Since that time, EPA has been requested by Makhteshim-Agan (America), Inc. (MAA), in a letter dated March 18, 1991, not to revoke the tolerance for dicofol on dried tea. In support of its request, MAA stated that it has undertaken studies needed to support the food additive regulation even though EPA never requested that they be submitted.

In response to this letter, EPA refused to reopen the Final Order of February 25, 1991 (56 FR 7750) noting that MAA has had adequate time and opportunity to submit the requested data, and when

contacted directly by EPA, MAA did not make a timely commitment to produce the requested data. EPA informed MAA that any information it had regarding residue levels could be submitted as a comment to the planned revocation proposal.

In a letter dated July 29, 1991, MAA confirmed that it was conducting a study which will provide data on tea processing and brewing, and the cost was being shared with Rohm Haas. Data on the Indian wet season and data from Japan will be provided to the Agency in an interim report to be submitted at the end of 1991, and data on dry season tea will be provided in a final report to be submitted in the third quarter of 1992. MAA further stated that these combined data will represent all geographic regions supplying dicofol-treated tea to the United States.

IV. Current Proposal

A. Revocation

EPA is proposing to revoke the dicofol food additive regulation on dried tea because, based on available data, the food additive regulation is inconsistent with section 409's Delaney clause. The Delaney clause bars the establishment of food additive regulations for substances which induce cancer in humans or animals. EPA has estimated the individual excess dietary lifetime risk from dicofol on dried tea is 6×10^{-4}. Because of the conservation assumptions used to derive this value, EPA believes that this risk estimate is likely to be a worse case estimate, and the true risk is likely to be lower.

EPA requested data which would have clarified whether this food additive regulation fell within the exception to the Delaney clause for pesticide uses which pose *de minimis* risks, but no acceptable data have been submitted in a timely manner. Because acceptable data were not provided in a timely manner, EPA can not conclude, or reasonably project, that the dicofol food additive regulation met the *de minimis* exception to section 409. If EPA receives the necessary data to complete its review of dicofol, EPA would reconsider whether a food additive regulation for dicofol on dried tea should be established.

B. Carcinogenicity

Within EPA, the determination of carcinogenicity is guided by EPA's Guidelines for Carcinogen Risk Assessment (51 FR 33992, September 24, 1986). The Group B_2 classification (Probable Human Carcinogen) includes "agents for which there is 'sufficient' evidence from animal studies and for which there is 'inadequate evidence' or 'no data' from epidemiologic studies." The Group C classification (Possible Human Carcinogen) is used for "agents with limited evidence of carcinogenicity in animals in the absence of Human data." (51 FR 34000, September 24, 1986). These guidelines were published in final form September 24, 1986. However, they were frequently referenced in their proposed form during the reviews of dicofol.

Because there have been differences within EPA regarding the classification of Dicofol's carcinogenic potential, the various EPA positions on dicofol will be laid out in some detail.

1. *Preliminary determination concluding Special Review of pesticide products containing dicofol.* On August 15, 1985, as part of the Special Review of Dicofol, EPA's Office of Pesticide Programs (OPP) issued an Amended Notice of Preliminary Determination Concluding Special Review of Pesticide Products Containing Dicofol (50 FR 33008), in which OPP concluded that there is limited evidence that dicofol poses carcinogenic risks to humans through dietary and worker exposure. This conclusion was based on a review of a report, then in draft form, prepared by EPA's Cancer Assessment Group (CAG) and on additional information not included in the draft CAG report.

a. *Long-term animal studies of dicofol.* The CAG reviewed a 1978 National Cancer Institute (NCI) bioassay in which male B6C3F1 mice exposed to dicofol at two dose levels were reported to have hepatocellular carcinomas (non-metastasizing) at elevated levels in both dose levels when compared to controls. There were no other statistically significant increases in tumors reported in either sex of mice. A concurrent study did not show any statistically significant increase in tumors in either sex of Osborne-Mendel rats.

Because of questions raised about this study, OPP requested a reevaluation of the pathology slides by scientific personnel at the National Toxicology Program (NTP). The results of the review are presented in a table in the Notice of Preliminary Determination (50 FR 33010). The review found that while the vast majority of tumors in the original study were classified as carcinomas, the NTP slide evaluation reported a more significant proportion of adenomas, which are benign tumors. It was stated that the different findings may reflect changes which may have evolved during the intervening years in conventions in the pathology community for classifying tumors.

b. *Supporting data.* The available supporting data on the carcinogenicity of dicofol was described. The draft CAG review found no epidemiological or mutagenicity studies of dicofol. However, the CAG draft report found the structural similarity between dicofol and DDT, DDE, and DDD to be important supporting data because DDT was a B_2 or probable human carcinogen and DDE was a carcinogenic metabolite of DDT. The significance of the structural similarity could take the following forms: dicofol could be metabolized to DDT; the carcinogenicity of the compounds could be related to the common physical structure; or the carcinogenicity could result from a common metabolite. There were preliminary data from a poultry metabolism study which indicated dicofol did not metabolize to DDE in chickens. OPP concluded that more data were needed.

c. *Weight of evidence determination.* Based on this structural relationship to DDT and its analogs, the determination that DDT is a probable human carcinogen, and the results of the 1978 NCI bioassay, the CAG draft report concluded that the weight of evidence argued for a B_2, or probable human carcinogen classification for dicofol.

OPP initiated a discussion of these findings by quoting the EPA Proposed Guidelines: "there are widely diverging scientific views about the validity of certain mouse liver tumors." Normally, the mouse-liver-only tumor should be considered as "sufficient" evidence of carcinogenicity (assuming other conditions are met), unless certain factors are found which would justify changing the classification to "limited."

The important factors OPP considered in reaching a conclusion that the weight of the evidence was "limited" follow. OPP's evaluations are in parenthesis.

(i) There was a statistically significant increase in the incidence of combined tumors, adenomas and carcinomas, at both the low and high dose ("sufficient"). However, because there was no interim sacrifice, there was no definitive evaluation of time-to-tumor-occurrence (inconclusive). Further, it appeared that the mortality of the animals during the study was not remarkable. Thus, the tumors were not life-shortening, and possibly did not occur until the end of the study (inconclusive).

(ii) There was no statistically significant dose-response relationship for the carcinomas or malignant tumors ("limited").

(iii) The tumors were predominantly benign ("limited"), appeared to be related to the administered chemical,

and the carcinomas showed no evidence of metastasis ("limited").

(iv) The full battery of dicofol mutagenicity data required by the Registration Standard was due in December, 1986 and so was not yet available for review. A number of other studies of mutagenic activity of dicofol provided by the registrant were negative or inconclusive. However, OPP had not had the opportunity to review these data. OPP relied on this information and a 1982 International Agency for Research on Cancer evaluation of the mutagenicity of dicofol for its conclusion. ("limited" to inconclusive).

(v) The tumors occurred only in a single sex ("limited").

(vi) The male mouse liver tumor incidence was not corroborated in an Osborne-Mendel rat study ("limited").

Based on this assessment, OPP concluded that the carcinogenicity of dicofol should be reclassified as "limited".

OPP also noted: (a) The structure-activity relationship with the DDT series was plausible, but unverified; (b) the connection between dicofol and the DDT related compounds via metabolism was not supported by limited evidence of the poultry metabolism study; and (c) human studies were lacking.

Thus, OPP concluded, based on limited qualitative evidence, that dicofol should be classified in Group C, the category for agents with "limited" evidence of carcinogenicity in animals in the absence of human data. However, it was also noted that there was some evidence which might suggest a different classification, and additional information was being requested to resolve the remaining issues.

d. *Dose Response Relationship.* While the CAG draft report calculated a dose-response estimate, OPP determined that the current dicofol data base provided such limited evidence in support of the conclusion that dicofol is a potential human carcinogen that no quantitative risk assessment should be used for regulatory purposes for dicofol (50 FR 33012).

e. *Review by the Scientific Advisory Panel (SAP).* The Notice also reported the conclusions of the SAP Review of the carcinogenicity of dicofol (50 FR 33015, July 29, 1985). In response to specific questions, the SAP made the following statements:

(i) The SAP believed that the evidence that dicofol is a potential human carcinogen is weak.

(ii) EPA should not incorporate considerations of DDT and DDE data in reaching a weight-of-evidence judgement on the potential human carcinogenicity of dicofol.

(iii) The panel believes that a quantitative risk assessment for dicofol as a carcinogen cannot be justified. Further, such risk assessment should be omitted from dicofol documents until there are sufficient data to justify such an assessment.

(iv) The panel is unable to characterize the dietary and applicator exposure estimates as grossly overstated, grossly understated, or reasonable because of the absence of sufficient information.

2. *The assessment of the carcinogenicity of dicofol (kelthane), DDT, DDE, DDD (TDE) (CAG Report).* In February, 1986, EPA's Cancer Assessment Group (CAG) issued its final report of a comprehensive literature search and cancer assessment of dicofol. A draft of this report was discussed in the Preliminary Determination of August 15, 1985 (50 FR 33008). Included in the CAG report were studies on the carcinogenicity of dicofol and DDT, DDE, and DDD. The latter three compounds have a striking structural analogy to dicofol, and thus CAG believed that data bearing on their carcinogenicity should be considered in assessing the carcinogenicity of dicofol. The CAG assessment reviewed the NCI dicofol feeding study which was positive for liver tumors in male B6C3F1 mice. NCI concluded that all tumors were carcinomas (hepatocellular carcinomas) except one. CAG did not consider NTP's re-evaluation of NCI's tumor determination. The dose response trend of the combined liver tumors in the male B6C3F1 mice was positive and significant.

DDT studies constituted the largest data base, with 25 animal carcinogenicity studies. These studies were reviewed, and included the following test species: mice, hamsters, rats, fish, dogs, and monkeys. Most of the positive tests that were reviewed (13 tests in all, including mice, rats, and fish) showed the liver to be the primary target site for DDT, although two studies showed only lung tumors and leukemias. On the bases of these tests, a test showing positive mutagenicity *in vivo*, two-stage chemical carcinogenesis tests, and the lack of a relevant epidemiological test, EPA judged DDT to be probably carcinogenic to humans. DDE and DDD also tested positive for carcinogenicity. All three compounds were categorized as Group B_2 - probable human carcinogens.

Based on the positive carcinogenicity tests in mice and the close structural analogy to DDT, DDD, and DDE, CAG judged dicofol to be to be at least possibly carcinogenic to humans (categorized in the B_2 to C range). Further, when analyzed by the linearized multistage model for low-dose extrapolation, all four compounds show similar cancer potencies, ranging from 0.25 to 0.44 $(mg/kg/day)^{-1}$. The cancer potency factor for dicofol was estimated at 0.44 $(mg/kg/day)^{-1}$. The CAG judged that the similarity in cancer potency values suggests that either a common carcinogenic metabolite is generated from these compounds, or each compound has intrinsic carcinogenic activity. Further, the CAG recommended that technical grades of dicofol, DDT, DDE, and DDD all be considered potential human carcinogens, and that an aggregate estimate of the upper confidence limit on the cancer potency of .34 $(mg/kg/day)^{-1}$ be used in the risk management of the compounds.

3. *Notice of intent to cancel registrations of pesticide products containing dicofol; denial of applications for registration of pesticide products containing dicofol; conclusion of Special Review; notice of final determination.* In a Notice published in the **Federal Register** on May 29, 1986, (51 FR 19508) OPP reaffirmed the views set forth in the Preliminary Determination (50 FR 33008), and stated the conditions under which dicofol products could be registered.

Even though the CAG report was by then final, the arguments presented against the draft report were recapitulated. While the CAG report had classified dicofol as ranging from a C to a B_2 carcinogen, the Notice ascribed to the CAG report a B_2 classification for dicofol. OPP reiterated its position that dicofol should be classified in Group C, which is used for agents with limited evidence of carcinogenicity in animals in the absence of human data. While OPP stated that there was evidence which might suggest a different classification, OPP also noted that additional information required through the Registration Standard and a subsequent Data Call-In notice would help resolve this issue. Further, OPP again concluded that no quantitative risk assessment should be used for regulatory purposes for dicofol. Nevertheless, OPP stated that dicofol does cause tumors in the livers of male mice, and this fact remained a concern to the agency. The Special Review of dicofol was thus concluded.

4. *The Carcinogen Risk Assessment Verification Effort (CRAVE) review of Dicofol.* CRAVE, an agency work group and peer review panel, evaluated the CAG report on August 5, 1987. It classified dicofol as a category C possible human carcinogen. In its review of the evidence for classification as to

human carcinogenicity, the work group made several determinations which are summarized below.

The basis for the Category C weight of evidence determination was the finding of malignant liver tumors in males of one strain of mouse, and the structural similarity to three other compounds that are probable human carcinogens. There was no human carcinogenicity data and no known human epidemiological data.

The animal carcinogenicity data relied upon was the 1978 NCI study of B6C3F1 mice. According to CRAVE, a dose-dependent statistically significant trend in the incidence of hepatocellular tumors (all carcinomas except one) was observed in treated males as compared to controls. Osborne-Mendel rats were also fed dicofol, but no excess tumors were found in males or females.

Supporting data for carcinogenicity included the structural similarity to DDT, a probable human carcinogen. DDE, a contaminant and putative metabolite of dicofol, was mutagenic and a probable human carcinogen.

The quantitative estimate of carcinogenic risk from oral exposure was calculated at 4.4×10^{-1} $(mg/kg/day)^{-1}$, using a linearized multistage procedure which included extra risk.

The Agency work group also commented that NCI used technical grade dicofol which was approximately 40-60 percent pure. In addition, the work group said there was evidence of substantial decomposition of the stored material during the last 12 months of the assay.

This information was entered into the Agency's data base Integrated Risk Information System (IRIS), between the dates of the Agency review, August 5, 1987, and August 22, 1988.

5. *New data and current assessment.* OPP has reevaluated the data pertaining to the classification of dicofol and reaffirms the conclusion that dicofol is a Group C — Possible Human Carcinogen subject to quantification. In so doing, OPP places principal reliance upon the CRAVE evaluation and the IRIS carcinogenicity classification which represent an Agency consensus. However, OPP notes that the CRAVE review of dicofol did not consider the following data:

(a) The analytical data on the purity and stability of the test material (Weisburger, 1985).

(b) The reevaluation by NTP of the liver pathology (51 FR 19508).

(c) A more recent rat chronic/oncogenic study in which no carcinogenicity was evident (MRID No. 40446302).

(d) Five genotoxicity studies: Ames (MRID no. 40042048), CHO/HGPRT gene mutation (MRID No. 40042049), CHO T3in vitro cytogenetic (MRID No. 40042051), *in vivo* cytogenetic (MRID No. 40042050), and T3in vitro unscheduled DNA synthesis (MRID NO. 40042052).

(e) A rat metabolism study (MRID No. 40042053).

In addition, a two generation reproduction study (MRID No. 418066-01) has recently been reviewed and indicates ovarian vacuolation and increased pup deaths, effects consistent with the estrogenicity of DDT/DDE, dicofol analogs.

OPP will provide these data to the CRAVE workgroup for their evaluation at a meeting scheduled for November, 1991. Nevertheless, in light of dicofol's strong structural relationship to DDT and DDE, OPP does not believe this additional data would change the classification of dicofol as a group C (possible human) carcinogen, and probably would not alter the recommendation that the risk be quantified by low dose extrapolation.

OPP has also reviewed the cancer potency factor Q_1^* for dicofol. The CAG report determined a combined Q_1^* of .34 $(mg/kg/day)^{-1}$ for DDT, DDE, DDD, and dicofol, because they are structural analogs and have similar carcinogenic properties. However, the CAG report also determined the Q_1^* for dicofol alone is .44 $(mg/kg/day)^{-1}$.

OPP agrees that if a risk assessment on dicofol per se is being performed, such as a tolerance assessment, the Q_1^* of .44 $(mg/kg/day)^{-1}$ must be used. If the risk assessment pertains to an exposure to a combination of dicofol and DDT (such as residues in fish), the Q_1^* of .34 $(mg/kg/day)^{-1}$ is more appropriate. Using a Q_1^* of .44$(mg/kg/day)^{-1}$, the individual excess dietary lifetime risk for dicofol on dried tea is 6×10^{-4}.

EPA seeks public comment on its cancer classification of dicofol from all interested parties. EPA will also make CRAVE's re-evaluation of the data available for public comment.

EPA concludes that the above animal studies are appropriate for evaluation of the safety of a food additive and that they demonstrate that dicofol induces cancer in animals.

C. De minimis Risk

The conclusion on carcinogenicity does not end the analysis, however, because, as indicated above, EPA recognizes an exception to the Delaney clause for pesticide uses which pose a *de minimis* risk. EPA has calculated the risk for dicofol on dried tea to be 6×10^{-4}. Since this risk estimate is at or exceeds levels of cancer risk frequently regulated by EPA, (56 FR 7750), this risk is not *de minimis*. The dicofol risk estimate is based on the cancer potency factor derived from the mouse study and certain assumptions concerning dicofol exposure. To estimate the amount of dicofol residues present on dried tea, the Agency assumed that treated commodities contained dicofol at the maximum permissible level set forth in the food additive regulation (45 ppm). Further, EPA assumed 100 percent of the crop is treated with dicofol, and thus that all tea consumed in the United States has been treated with dicofol. EPA used the maximum permissible level because EPA has inadequate residue data on dried tea to permit an assessment of chronic or typical dietary exposure. The assumption that 100 percent of the crop was treated was used in the absence of reliable data that would indicate a lesser percentage. Residue data from field trials and processing studies often show average residues to be below the level of the food additive regulation. Such data, in the form of field trials and a tea brewing study, were requested of dicofol manufacturers, but the submitted data were judged unacceptable. In the continuing absence of the necessary data, EPA cannot conclude that data which may be supplied by dicofol manufacturers are likely to show that dicofol residues on dried tea pose at most a *de minimis* risk. Although EPA earlier concluded that dicofol on tea was likely to be overstated, after a reexamination of the data resubmitted by Rohm Haas, EPA has determined that the available residue data are so sparse as to preclude reasoned estimates of the anticipated residue level on dicofol on tea and the risk posed by those residues.

D. Timing of Revocation

Tea production occurs in countries outside of EPA's jurisdiction. Thus, EPA cannot directly prevent the use of dicofol on tea, and it is possible that use on tea may continue after the food additive regulation is revoked. Dried tea is subject to FDA inspection for illegal pesticide residues at ports of entry into the United States, and may be sampled by FDA at other times while it is in marketing channels within the United States. If found to contain residues of dicofol after the effective date of the final revocation action, it may be seized. For this reason, revocation of the dicofol food additive regulation for dried tea may result in disruption of the marketplace. Nonetheless, by delaying the effective date of the revocation until tea treated with dicofol prior to EPA's final revocation decision clears the

market, EPA could reduce this disruption.

EPA understands that the crop years for tea vary depending on whether the tea is grown in the northern or southern hemispheres. EPA has limited information indicating that the shelf life of tea is 18–24 months. Over half the tea should clear distribution channels in 1 year after harvest and about 95–99 percent should clear in 3 years. EPA also has limited information indicating that dicofol residues do not dissipate to undetectable levels during the time after harvest. However, EPA has no information that foreign distributors could not, in a far shorter period of time, be able to segregate dicofol-treated tea from other tea.

Based on this information, and given the potentially high risk and absence of information on market disruption, EPA proposes that this revocation become effective 30 days after the date of the final action. EPA requests comment on whether the proposed effective date of the revocation is appropriate and will minimize disruption to the marketplace.

V. Public Comment Procedures and Availability of the Administrative Record

EPA established an administrative record for the proposed revocation of the food additive regulation for dicofol on dried tea. This administrative record will include this proposal, any notices pertinent to this proposed revocation, documents not considered Confidential Business Information, and a current index of materials included in the administrative record. The administrative record is located in the Public Docket, rm. 1128, 1921 Jefferson Davis Highway, Arlington, VA. 22202, and can be viewed from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Interested persons are invited to submit written comments, information or data in response to this proposed rule. Comments must be submitted by January 2, 1992. The length of this comment period has been set to accommodate public review of the conclusions of the planned CRAVE review of dicofol (scheduled for November, 1991). Comments must bear a notation indicating the document control number [OPP–300238]. Three copies of the comments should be submitted to the address listed under ADDRESSES. All written comments filed pursuant to this Notice and documents considered and relied upon by EPA in reaching its decision will be available for public inspection at the address listed in this unit.

In order to satisfy requirements for analysis specified by Executive Order 12291 and the Regulatory Flexibility Act, EPA has analyzed the costs and benefits of this proposal. The Preliminary Economic Assessment of the Tolerance Revocation on Dicofol is available for public inspection in rm. 1128 at the address given above.

VI. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must determine whether a proposed regulatory action is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a major regulatory action, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

This proposed rule has been reviewed by the Office of Management and Budget as required by E.O. 12291.

B. Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 et seq.) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments or small organizations. Limited monitoring data from FDA (11 samples collected during the period October 1987 to February, 1991) has not shown any residues of dicofol on dried tea. Further, based on limited data, it appears that the percent of the tea crop treated with dicofol and imported to the United States may be less than 10 percent.

Accordingly, I certify that this proposed rule does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

This proposed regulatory action does not contain any information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Authority: Sec. 408(m) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(m).

List of Subjects in 40 CFR Part 185

Administrative practice and procedure, Agricultural commodities, Food Additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 27, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 185 be amended as follows:

PART 185—[AMENDED]

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

§ 185.410 [Removed]

b. By removing § 185.410 1,1-Bis(p-chlorophenyl)-2,2,2-trichloroethanol.

[FR Doc. 91–23967 Filed 10–3–91; 8:45 am]

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Making continuing appropriations for the fiscal year 1992, and for other purposes. (Sept. 30, 1991; 105 Stat. 551; 4 pages) Price: $1.00

S. 296/Pub. L. 102-110
Armed Forces Immigration Adjustment Act of 1991. (Oct. 1, 1991; 105 Stat. 555; 4 pages) Price: $1.00

H.R. 3291/Pub. L. 102-111
Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes. (Oct. 1, 1991; 105 Stat. 559; 17 pages) Price: $1.00

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